

# U.S. COAST GUARD REAUTHORIZATION

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Y 4. C 73/7: S. HRG. 103-358

U.S. Coast Guard Reauthorization, S...

## HEARING

BEFORE THE

COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

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MAY 26, 1993

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Printed for the use of the Committee on Commerce, Science, and Transportation



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# U.S. COAST GUARD REAUTHORIZATION

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WEDNESDAY, MAY 26, 1993

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The committee met, pursuant to notice, at 10 a.m. in room SR-253, Russell Senate Office Building, Hon. Ernest F. Hollings (chairman of the committee) presiding.

Staff members assigned to this hearing: Penelope D. Dalton and Lila H. Helms, professional staff members; and John A. Moran, minority staff counsel.

## OPENING STATEMENT OF SENATOR HOLLINGS

The CHAIRMAN. Admiral Kime and your associates, we welcome you to the committee. The Coast Guard in 1790 I think was designed to arrest smuggling and collect revenues and has now taken on Haitian refugees, drugs, the safety at sea, hurricane recoveries—everything in the world—and of course the economic zone has been extended, so you have had quite an enlarged mission. In the 3 years that you have come on board it has kept enlarging.

I would like to hear, and I am sure the committee would like to hear about your experience and how you think that the goals and perspectives of the agency have been fulfilled since you have been the commandant. Senator Stevens, Senator Kerry, and I plan to introduce an authorization bill this week, that is consistent with the legislative package the administration has proposed.

President Clinton has requested \$3.8 billion for the fiscal year 1994, an increase of \$147 million or 4 percent over last year. The request includes several high-priority items.

Among them, of course, is the seagoing and coastal buoy tender replacements, the acquisition of the final three Jayhawk helicopters, upgrading vessel traffic service systems at some seven high-risk ports, and funding for family housing and barracks upgrades. With respect to housing, of course we have got to take care of the troops. They are doing a remarkable job. I do not see how they do it continually under the pressures and dangers that I note from time to time, just following their activities. I will insert my prepared statement in the record at this point.

[The prepared statement of Senator Hollings follows:]

## PREPARED STATEMENT OF SENATOR HOLLINGS

Good morning. The committee meets today to review the programs and funding needs of the U.S. Coast Guard for the upcoming fiscal year. I welcome Admiral Kime and his associates. Admiral, it has been nearly 3 years since your confirmation. As you head into your final year at the helm of the Coast Guard, I am particu-

larly interested in hearing how your experience as Commandant has shaped your goals and perspectives for the agency.

The Coast Guard has a critical role as a branch of our Armed Services in defending the Nation and maintaining national security. It also has many other important roles. The American public has learned to depend on the Coast Guard's service, both close to home and in trouble spots around the world. I congratulate you, Commandant, and the men and women of the Coast Guard for your vital contribution in diverse missions: enforcement of United Nations sanctions in the Red Sea and in the Adriatic Sea; rescue work after the terrible devastation of Hurricanes Andrew and Iniki and in the aftermath of last March's "Storm of the Century"; humanitarian assistance in saving Haitians and other refugees from their crowded and makeshift boats at sea; protection of the marine environment from oilspills and other pollution; and enforcement of fisheries laws and treaties. The scope of these operations stands in contrast to the original purpose of the Coast Guard when it was created in 1790—namely, to prevent smuggling and to collect tax revenues. The professionalism and efficiency with which the service has assumed each new mission or responsibility speaks well for the dedication of the men and women of the Coast Guard. The Coast Guard is clearly a model for an effective multimission military organization.

Turning to the Coast Guard budget, I note that President Clinton has requested \$3.8 billion for fiscal year 1994. This is an increase of \$147 million, roughly 4 percent over last year, and is needed to fund growing acquisition and operation costs, as well as retirement pay. Several high-priority capital investments would be funded. Among them are seagoing and coastal buoy tender replacements, acquisition of the final three HH-60J (Jayhawk) helicopters, upgraded and new vessel traffic service systems in seven high-risk ports, and funding for family housing units and barracks upgrades. The last of these investments is so important because it places a priority on the Coast Guard's most valuable assets, its people.

With respect to legislation, the Committee has received two administration proposals: the Coast Guard Authorization Act of 1993 and the Marine Safety Act. I will be working with the Coast Guard and the Department of Transportation on these proposals and anticipate that they will form the basis for committee action later this session. Of particular importance is the Coast Guard's renewed emphasis on marine safety. I look to Admiral Kime to make a compelling case for closing the loopholes in the U.S. passenger vessel safety laws and establishing a training and licensing program for commercial fishermen. I think all of us were shocked and saddened by the tragic boating accident which recently took the life of one professional baseball player. The incident illustrates the need for better education of the boating public, and for stronger methods to get drunken boaters off our rivers and lakes.

I look forward to the testimony today.

The CHAIRMAN. So, on behalf of the committee let me welcome you and your associates this morning. We would be glad to hear from you at this time.

**STATEMENT OF ADM. J. WILLIAM KIME, COMMANDANT, U.S. COAST GUARD, ACCOMPANIED BY REAR ADM. RICHARD D. HERR, RESOURCE DIRECTOR-COMPTROLLER, AND CAPT. ROY J. CASTO, CHIEF, BUDGET DIVISION**

Admiral KIME. Thank you, Mr. Chairman. Again, it is a great pleasure and honor to appear before you and this committee today. I have with me on my right Adm. Dick Herr, who is our Resource Director and Comptroller, and on my left Capt. Roy Casto, who is head of our Budget Division.

Mr. Chairman, I first would like to thank you for your very kind words about the Coast Guard, and in my opening statement I will try to address several of the issues that you raised. I share your beliefs that the Coast Guard has received ever-increasing responsibilities, and certainly these are tasks we welcome because we think we can do them in the best, most cost-effective way of any agency in the Government.

At the same time, we do require the funding to be able to achieve this, and we believe that the budget as proposed by President Clin-



ton will enable us to do this, and that is why we feel it is so important that the Coast Guard receive funding.

Mr. Chairman, I would ask that my entire statement be entered for the record and I be allowed to make a short summary statement.

The CHAIRMAN. Very good. The statement will be included, and you can highlight as you wish.

Admiral KIME. Thank you, Mr. Chairman.

We are living in some very dramatic and historic times. Changes are taking place probably at a greater rate than I can ever remember, and we are in a new security environment that is marked by international regional instability and security threats that are less defined than in the past.

Domestically, we see a renewed focus by the President and the administration on economic revitalization and environmental protection, and the infrastructure improvements that go with this.

I would like to touch just briefly today on how the Coast Guard fits into this picture. We remain focused, as always, to answer the call for these new challenges and to also help the Secretary of Transportation achieve his goal. That is, to provide the finest and safest transportation system in the world.

You are familiar, Mr. Chairman, with our four principal mission areas. Marine environmental protection, as you indicated in your opening statement, is one where certainly our responsibilities are growing in response to the Oil Pollution Act of 1990—the biggest challenge, the biggest tasking that the Coast Guard has ever received from the Congress—and I think we are moving out smartly to meet those commitments in many areas.

Maritime law enforcement, too, is increasing in importance, and is very dynamic. It involves three principal areas. Fisheries resources represent a significant national asset for the United States, and we are devoting an increasing number of assets to our responsibilities here for stock conservation and compliance with all of the fisheries laws, and I am very, very proud of what our people are doing in this area. With the recent emergence of what appears to be increased violations of the U.N. embargo on driftnet fishing, we are becoming particularly busy in this area.

I am proud of what we are doing to prevent illegal economic migrants from entering the country, especially in Operation Able Manner down in the Caribbean. I think our young men and women down there are doing an outstanding job of preventing a mass exodus from Haiti that could result in a significant loss of life; they are also giving the administration time for the President's plan, both his diplomatic and economic plan, to begin to work.

At the same time, we are seeing an ever-increasing number of cases of illegal migrants from the People's Republic of China coming in on both the east and west coast of the United States. Just before I came here, Mr. Chairman, I was reading a little bit of history that indicated the Coast Guard first was faced with this problem of illegal migrants from China back in about 1904.

Drug interdiction certainly is something that continues to be very, very important. We are working very closely with DOD and our friends in the other law enforcement agencies to work in a most cost-effective manner in preventing the influx of illegal drugs

into this country, and I think we are doing an outstanding job. Certainly the interagency cooperation has never been better.

Maritime safety, including search and rescue, is certainly the thing that the Coast Guard is probably most known for.

The area of national security, as I mentioned, is influenced by a changing world. In response to these changing situations—such as the reduced threat from the Soviet Union on a strategic basis—the tasking that the Coast Guard is receiving from DOD is changing, and this has caused us after several years of study to recommend a reduction in our Selected Reserve Force.

We do believe this is the rock bottom number we could reduce to and still meet national security-related requirements, while at the same time being able to respond to the natural disasters of the type that you mentioned in your opening statement—hurricanes, earthquakes, and oil pollution responses—where the Reserve has always, and will continue to play a very major role.

Mr. Chairman, as I go into the fourth year of my time as Commandant, I am also trying to stick with my watchwords of people, balance, and excellence. You mentioned the outstanding caliber of people we have, and I certainly second that. Without the outstanding young men and women that we have in the Coast Guard today, we could not continue to do what we are doing.

I am very much concerned that they are treated in the way that they should be, and also that we posture ourselves for the future when it is going to be more difficult to attract this caliber people. I refer to the article in the Washington Post today that talked about the fact that the quality of recruits in many of the services is going down. I am very pleased that the quality of recruits in the Coast Guard is going up, but if we do not maintain our current efforts, the quality in our service too will be going down.

I have talked about balance, Mr. Chairman, and I talk about balance as a capability to recognize the need for a shift in emphasis and the flexibility to react to that need, and I think that is what we have done in many of the multi mission areas where we are facing changes in demands, new tasking by the Congress, new views by the American public.

Finally, regarding quality, it is excellence that I am concerned about, using total quality management to make the very best possible uses of the resources that we have in the Coast Guard, and I think we have had some very good successes there, Mr. Chairman.

You ask me about my major goals. I would categorize those in the three areas of people, balance, and excellence. In the area of people, we have looked at the fact that the demographics and the culture of this country are changing. The workforce of the 21st century is going to be a lot different, and we are trying to posture ourselves to meet that challenge.

For right now, we are looking at the worklife initiatives, a major study that the Coast Guard did, to be sure that we provide the same level of services to our people that DOD and that the corporate community does to theirs. We found that we are far behind, but we are catching up thanks to the support of the Congress. For example, we are working on medical care, a challenge not only to

the civilian sector, but to the Coast Guard, and we are tightening our belt to be as cost-effective as we can.

We are experiencing about a 9-percent increase in the cost of medical care as opposed to about 12 percent in the private sector. That is why we have asked for additional funding above the cost-of-living allowance in the budget this year.

Housing, something that was the major problem facing my people when I became Commandant, is now not a major problem, thanks to the support of the Congress providing funds for us to increase our leased housing program, and also to build and maintain Coast Guard housing where housing was previously not available.

It is still our priority to let our people have wages where they can live on the economy wherever that is possible, without having to resort to leases or Coast Guard-owned housing.

Balance, I think we have done a good job in that area, and we will continue to pay great attention to that as our missions change.

Let me say, again, regarding excellence—this is an area where we need to deliver the right service to the taxpayer at the right time in a cost-effective manner, and we are trying to be certain that we do that.

I think we have made significant strides in our acquisition process. You mentioned some of the things facing us now: a new ice-breaker which we hope to let a contract for shortly, two new classes of buoy tenders both with environmental response capabilities, and new motor lifeboats for lifesaving. I think we are doing these projects much, much better than we have in the past, and it is due, I believe, to continued emphasis on total quality management.

Mr. Chairman, let me close by saying that this is a very tight budget request that we have here—\$48 million of the \$52 million we have asked for in increases in our operating expenses appropriation is a result of cost-of-living increases and annualization of past budget requirements.

I am in essence reprogramming on budget, in budget category 1, things that we are going to stop doing and offering up the money, almost \$43 million this year. That certainly is the largest budget category 1 level the Coast Guard has ever submitted. So, while we recognize the need to grow in certain areas, we are trying to make offsets wherever we can.

Mr. Chairman, let me end there, and I look forward to your questions, and both Admiral Herr and Captain Casto are prepared to respond with me.

Thank you.

[The prepared statement of Admiral Kime follows:]

#### PREPARED STATEMENT OF ADM. J. WILLIAM KIME

Good morning, Mr. Chairman. It is a pleasure to appear before this distinguished Subcommittee today to discuss the Coast Guard's fiscal year 1994 authorization and its impact on the current and future state of the Service.

We have seen dramatic and historic changes in both the international and domestic landscape in recent years. The breakup of the former Soviet Union, the emergence of a uniting Europe, and initiatives like the North American Free Trade Agreement are all changing the face of the globe as we know it. At the same time, we are moving to a more global-based economy. There is a new security environment, marked by growing regional instability, and national security threats that are not as well defined as in the past. Although less defined, these threats remain very real, as demonstrated by the recent terrorist bombing at the World Trade Center

in New York City. Amidst all this uncertainty, the United States must be positioned to respond in a timely and flexible way.

Domestically, the President has proposed significant changes to address the needs of the Nation, which are outlined in the document, "A Vision of Change for America." This plan provides a renewed focus on economic revitalization, environmental protection, and infrastructure improvements. President Clinton has also made a strong commitment to address the growing national deficit, control the growth of Government spending, and most importantly, preserve the American dream for our children and grandchildren.

I am here today to explain how the Coast Guard fits into this picture and how our fiscal year 1994 budget request promotes these broad areas of national interest.

First, let me explain that, amidst these defining foreign and domestic changes, the Coast Guard remains focused on its enduring missions. The roles of our Service, more than ever, are linked to America's national priorities, as well as the goal of the Secretary of Transportation—to provide the finest and safest transportation system in the world.

As we have done for over 200 years, we remain *Semper Paratus* to answer the call of new challenges and respond to national requirements wherever our services are needed. While we are small in size as an organization, we are long on value to the Nation, especially because of our flexibility and strong multimission capability. The Coast Guard is the world's leading maritime humanitarian and safety organization<sup>1</sup> with a hard-earned reputation for efficiency and professionalism. And we plan to remain the leader.

As the Nation's primary maritime operating agency, the Coast Guard has an important role in four fundamental areas: Marine Environmental Protection (MEP), Maritime Law Enforcement (MLE), National Security, and Maritime Safety. To effectively carry out these roles, we must operate and maintain shore facilities, vessels, and aircraft which must be highly responsive to the needs of our Nation.

All Coast Guard missions—whether directed toward rescuing distressed mariners, enforcing fisheries regulations, combatting oil spills, keeping channels safe for shipping, interdicting drug smugglers, breaking open ice-bound rivers, or conducting port security operations—contribute directly to the Nation's economic, social, environmental, and military security.

We have a vital role in supporting the national maritime transportation infrastructure, by ensuring the safe and efficient use of ports and waterways—where trade must move safely in and out of ports; and supplies must be safely loaded for deployed military forces. Our activities in maintaining Aids to Navigation (ATON), providing Vessel Traffic Services (VTS), conducting vessel inspections<sup>1</sup> and licensing merchant mariners all promote a safe and efficient maritime transportation system. Given the increasingly interdependent nature of the global economy, we must ensure this system flourishes and continues to preserve American interests.

I have already mentioned our four primary operating missions and would now like to briefly highlight some of our recent accomplishments in these areas and discuss where I see us going in fiscal year 1994.

Marine environmental protection will continue to be a highly visible mission because of national concerns over all forms of pollution, especially the type of environmental damage that can be caused by a tanker oil spill like that from the recent grounding of the Motor Vessel *Aegean Sea* off the coast of Spain. Building on the momentum of the Oil Pollution Act of 1990 (OPA-90), we are taking significant strides to improve America's ability to prevent and respond to marine pollution incidents. We are focusing on increased prevention and response capabilities; greater enforcement efforts; and completion of spill response contingency plans at all levels.

Some initiatives which highlight our progress in this area include: continued distribution of pollution response equipment to 19 prepositioned sites; review and approval of vessel and facility response plans; establishing regional strike teams which are actively responding to pollution incidents; forming the National Pollution Funds Center to pay claims associated with oil spill cleanup and to make funds available to states up front for pollution response; national and international efforts to establish double hull design standards; significant progress on 47 rulemakings required by OPA-90; more aggressive enforcement of MARPOL V regulations; spill response training exercises; and striving to work better with both industry and the environmental community.

The priority we place on improving our capability to both prevent and respond to marine pollution incidents is reflected throughout the fiscal year 1994 budget request, which, although effectively constrained to current services levels, includes modest new operating resources to support additional pollution response training and augmentation of the National Pollution Response Center. The budget request also includes Acquisition, Construction and Improvements (AC&I) funding for two

seagoing buoy tenders which will have a built-in spilled oil recovery capability. In addition, environmental protection-related projects represent a significant portion of the total project funds in our Research, Development, Test and Evaluation (RDT&E) appropriation request.

Maritime law enforcement has been an integral part of our service since 1790 and will remain an important mission in the future. Law enforcement touches nearly all program areas of the Coast Guard and requires a dynamic balance among fisheries enforcement, alien migration interdiction, antidrug operations, and other general maritime law enforcement activities. Our fiscal year 1994 request will allow us to continue our current level of effort in this important area as we focus on achieving the balance necessary to respond to national priorities.

Fisheries enforcement is a growing priority in the marine environment because of increased public concern throughout the Nation—as well as internationally—over the preservation of major fishery stocks. Our fishery resources represent a significant national asset, especially when you consider that the U.S. fishing industry contributes over \$24 billion per year to the economy. They also provide an important quality of life enhancement to 17 million Americans through recreational fishing. These resources will continue to require protection from foreign encroachment; however, with a domestic harvesting ability of three times the available yield, these resources are clearly in danger of being overfished by American fishermen alone. This has a direct impact on the economy, because when stocks are overfished and depleted, American jobs are lost. To ensure the success of fishery management plans and the sustained viability of our fishing industry, fishery managers require strong enforcement support from the Coast Guard.

I have continued to redirect operational tasking to meet growing fisheries enforcement requirements within the MLE mission area to enhance our fisheries enforcement efforts—a critical step toward increasing compliance with fishery management plans. The fiscal year 1994 budget request addresses the substantial challenge of fisheries law enforcement and protecting fishery resources by providing new staff and training for four Regional Fisheries Training Teams. This is one of the very few areas of our budget where we are requesting new resources to improve our operational capability.

Moving to another law enforcement arena, I am extremely proud of the dedicated performance of our crews in the difficult mission continuing to take place off the shores of Haiti. The fact that over 42,000 migrants have been safely intercepted, in all types of weather, during night and day, is indeed a tribute to our men and women assigned to perform that mission. Conditions within Haiti, Cuba, and also in other parts of the world, such as the People's Republic of China, have the potential to foster future mass migrations. The alien migration interdiction mission will continue to require substantial Coast Guard enforcement efforts in response to these regional instabilities.

Drug abuse continues to be a serious national problem of great concern to us all. In recent years, the national strategy has increased the focus on demand reduction and sought greater efficiencies on the supply-side reduction efforts; Coast Guard resources devoted to drug interdiction have been reduced accordingly. Despite better intelligence and the application of improved technology, we still encounter a very determined cocaine smuggling community.

Over the past year, even while the Coast Guard has been heavily engaged in Haitian migration interdiction operations, we have also continued our vigorous support of drug enforcement as the lead Federal agency for maritime drug interdiction. We are maintaining our law enforcement efforts to deter the maritime transport of illegal drugs, and work closely with the Department of Defense, as well as a coalition of other Federal agencies, to intercept and prosecute narcotics smugglers.

As an example, in November 1992, our units led a joint Navy, Customs Service, and Canadian mission which involved tracking a narco aircraft from South America, intercepting it off the East Coast, and ultimately supporting the seizure by the Canadians—the cargo was 3700 kilos of cocaine with a street value in excess of \$100 million.

In support of our MLE efforts, our fiscal year 1994 AC&I request will fund various capital investment projects for renewal of multimission facilities, such as the Midlife Maintenance Availability (MMA) of our 210-foot cutters, and procurement of three replacement HH-60J helicopters for Operation Bahamas and Turks & Caicos (OPBAT) antidrug operations.

To emphasize our role in the national security strategy as one of the Nation's five Armed Forces, I recently published, "The United States Coast Guard—A Distinct Instrument of National Security." In there, I point out that unlike the other military services, the Coast Guard's national security mission does not concentrate exclusively on the national defense role. Drawing from all our other missions, the Coast

Guard provides a unique capability to enhance and defend our national security that is not duplicated by the other armed services.

The Coast Guard has been involved in every major American conflict since 1790. Our contribution during Operation Desert Storm, our continuing involvement in the Persian Gulf with our Law Enforcement Detachments (LEDETs) enforcing the embargo against Iraq, our presence off the coast of Haiti, establishing and patrolling special harbor security zones when risk assessments dictate, and our LEDETs helping enforce the embargo against the former Republic of Yugoslavia all underscore the unique and versatile contribution of the Coast Guard.

The Coast Guard is helping to shape the emerging security environment through nation-building and strengthening of alliances with developing countries. Our international leadership in this area is clearly reflected through security assistance training; passenger vessel security initiatives; deployment of marine safety assistance teams, and international law enforcement training teams. Additionally, we play a central role in the International Maritime Organization (IMO), where we seek to build global solidarity in the advancement of environmental prevention and response efforts, as well as vessel and port safety regulations.

General Powell, Chairman of the Joint Chiefs of Staff, recently reaffirmed our National Security role, "I'm more certain than ever that the Coast Guard belongs in the national command authority's tool box of military capabilities. I also agree absolutely that the Coast Guard's national security functions will evolve with the emerging requirements of the post-Cold War era. \* \* \*

As the Nation's primary maritime operating agency, we are actively saving lives and property at sea on a daily basis. Our maritime safety mission has helped form our rich humanitarian tradition, and yield a reputation as the world's expert in Search and Rescue (SAR). Through our efforts in Aids to Navigation (ATON), Commercial Vessel Safety, Icebreaking, VTSs, Recreational Boating Safety, and deployment of a Differential Global Positioning System, we seek to prevent accidents and promote safe maritime transportation.

In fiscal year 1992, we carried out over 69,000 search and rescue cases which resulted in 5,450 lives being saved; further assistance to 122,750 individuals; and the saving of over \$706 million in property. We quickly answered the call in the wake of hurricanes Andrew and Iniki, performing 142 SAR cases, responding to over 80 oil pollution reports, and repairing hundreds of aids to navigation.

Maritime Safety initiatives are an integral part of our fiscal year 1994 capital budget request, which includes such projects as: development of a modern Vessel Traffic System (VTS) for eventual deployment in our highest risk ports throughout the Nation; upgrades/expansions of existing VTSs at New York and Puget Sound; further deployment of the Differential Global Positioning System; and replacement of our aging seagoing buoy tenders (WLBs).

Mr. Chairman, I would now like to give you an overview of our fiscal year 1994 budget request. This request is consistent with the Administration's overall policy goals, as well as the ensuing Executive Orders which call for administrative efficiencies and civil service personnel reductions. The total request of \$3.73 billion across all appropriations is virtually the same level of funding that was requested for fiscal year 1993. If fully funded, this request would allow us to continue providing the most important services that the public expects of us, and permit a few vital enhancements in selected areas.

The request in the Operating Expenses (OE) appropriation essentially reflects a current services operating level with very minimal funding for discretionary initiatives. Over \$48 million of the \$52 million requested increase in this account will be consumed by fiscal year 1993 annualizations and the cost of living allowance. The improvements requested in the marine environmental protection, marine safety, living marine resources, and work-life areas are necessary and modest. Outyear budget projections forbode the need for even greater efficiency measures if current service levels are to be maintained. I look forward to your future support as we reshape our OE appropriation in support of Presidential budget control initiatives.

The Acquisition Construction, and Improvements (AC&I) appropriation is our source of capital investment funds. This year's request of \$414 million matches the amount requested last year and allows us to move ahead in some critical areas; however, knowing the capital replacement and improvement requirements that await us in years to come, your sustained support for the necessary AC&I funding levels to meet these requirements is absolutely essential.

Now, turning to our fiscal year 1994 request for the Coast Guard Reserve—an essential element in our ability to respond to national contingencies. As promised last year, I have reassessed our mobilization requirements which have been derived from the updated Department of Defense contingency planning scenario. That review produced a Coast Guard mobilization requirement which supports a Selected Reserve



force sized at 8,000. The Reserve has distinguished itself through many noteworthy contributions in recent years, including supporting the Persian Gulf war in-theater and stateside; and providing emergency assistance during man-made and natural disasters such as the Exxon Valdez oil spill and hurricanes Andrew and Iniki.

While the justification for the new size of this force is based on the Coast Guard's defense-related mobilization requirement, I am confident that this down-sized Reserve force will still be capable of adequately responding to both military and non-military contingencies, like those highlighted above. The Reserve Training (RT) request of \$64 million will support a full training program for 8,000 Selected Reservists.

Mr. Chairman, there is one more budget issue that I feel I must highlight. In recent years, various levels of funding for the Coast Guard were provided from Department of Defense (DOD) sources, primarily as the result of congressional initiatives. That has become problematic because of the ongoing DOD drawdown as well as potential ambiguity in congressional oversight. It is our desire to receive all our appropriations through budget function 400. With the funding walls down, we now see an opportunity for full funding within the Transportation allocation.

As outlined in previous testimony, the Coast Guard is proceeding on the course charted in my Vision Statement and Strategic Agenda. Our organizational watchwords remain \* \* \* "people, balance, and excellence." We have made significant progress in people programs; in achieving resource and mission balance; and in delivering the highest level of quality and excellence in services to the public. After three years at the helm of the Coast Guard, I feel that the ship is on course and has made excellent progress in all three basic areas.

One of my highest priorities has been to restore a proper emphasis on the needs of our people—because people are the source of our organizational strength and effectiveness. We ask a great deal of our personnel—and, as you have seen in the past year, they deliver. Whether cleaning up oil spills, maintaining buoys, intercepting illegal aliens, hoisting the crew off a sinking freighter, breaking ice, providing emergency response to a hurricane, apprehending smugglers, or enforcing fisheries regulations—our crews work hard and go in harm's way to give the American public an honest return on every tax dollar \* \* \* and they do it in a manner that makes me very proud. In return, we must ensure that we fulfill our responsibility to meet their basic needs.

I remain a strong advocate for improving the quality of our personnel support programs because we are only as good as our people. We have made excellent strides in this area, but continued progress is needed. One of the very few enhancements in this year's OE budget request is the Work-Life program, which is the vanguard of our efforts to systematically improve personnel support in the Coast Guard. Our request for \$3.1 million allows continued implementation of Work-Life initiatives in the areas of: relocation and housing assistance; dependent care; health care and wellness; family assistance; life skills and crisis counseling; employee assistance; and education and training. This program represents a strategic investment in our "human capital" that will pay off by ensuring the maintenance of a highly dedicated, talented, and productive workforce in the future.

We must also continue our efforts to build a balanced workforce which reflects the rich diversity of our great Nation. This means recruiting and retaining the highest qualified candidates from a shrinking and very competitive job pool. We have seen encouraging trends in first-term reenlistment rates, increasing from 55 to 60 percent (over the past year); we need to continue personnel and recruiting initiatives to ensure the Coast Guard remains competitive for top talent in the 90s; we must also ensure that the incentives are in place so members of our diverse workforce find career service an attractive option.

I believe our retention rates are at an all-time high in large part because of our demonstrated concern for our people and efforts to enhance quality of life. Continued improvements in compensation, housing, medical care, and the working environment will allow us to attract and retain the most qualified personnel \* \* \* and keep our retention rates high.

Regardless of the changes in demographic or economic conditions, investments in our people-related programs will yield future dividends by building a quality workforce which is best prepared to meet the burgeoning challenges facing our service.

Since 1990, I have sought to achieve the proper strategic balance among our major roles—and I have already discussed initiatives that help us move in that direction as an organization. The proper balance of emphasis and resources among our mission areas remains a central theme in my Strategic Agenda, and is the key to preserving and enhancing our highly efficient multimission character—the hallmark of Coast Guard efficiency and responsiveness.

The Coast Guard has a well-deserved reputation for excellence; however, we are still continuously striving to function more efficiently and effectively. We continue to successfully apply the leadership and management principles of Total Quality Management (TQM) in a growing effort to maximize the efficiency and effectiveness of our resources.

We do not consider TQM a magic formula which was purchased off the shelf to solve a short-term problem—it is a way of doing our daily business which we have made part of our business culture. TQM is firmly established in the Coast Guard and has become the process we use to determine how to deliver the right services to the public at the right time, and in the right way.

In summary, my watchwords for directing the Coast Guard remain “people, balance, and excellence”—these themes will continue to serve us well as we face the major challenges ahead. We will maintain our performance and readiness through continued emphasis on people—our most important resource; a balance among our various missions; and an unwavering commitment to excellence.

Mr. Chairman, the President’s fiscal year 1994 budget for the Coast Guard reflects a constrained request with no real growth beyond the level of current services. I need your full support of this request. It represents the first of what I expect to be several austere budget years which will require very careful management of base resources. As we have seen this year, our ability to address emerging national priorities in the future will only be possible through substantial consolidations or other actions which create efficiencies from within existing resources. I believe this budget request is responsive to the challenges we face in meeting the Nation’s maritime transportation needs, while at the same time responsive to the fiscal challenges we face as a Nation.

In closing, I would like to thank the Subcommittee for their support over the last several years. I appreciate the continued opportunity to work with returning members, and look forward to meeting new members. We have worked hard to improve our communications with, and responsiveness to, the Committee members and staff, and I think we have made significant progress in that area. I can assure you that this important effort will continue in the year ahead.

Mr. Chairman, I will be happy to answer any questions you or the other members of the Subcommittee might have.

The CHAIRMAN. Well, let us just time ourselves so all the members will have a fair chance, at least on the first round.

Admiral, relative to the money, we are likely to be about \$350 million shy, I would think, from the President’s budget in the allocation for transportation. As a result, we will have to go to what we call the 050 defense function.

Admiral KIME. Well, as you know, Mr. Chairman, in the past 10 years we have averaged about \$350 million from function 50 to augment the function 400 appropriation that has been given to the Coast Guard. Last year it was \$403 million.

We recognize that there is a difference between the President’s budget and the budget resolution this year in transportation itself. While we would prefer to receive all of our funding from function 400, certainly if we are going to continue to meet the responsibilities that have been given to us by the Congress and that people expect us to meet, funding at the President’s budget request is necessary, and perhaps that may partially have to come from function 50 this year.

The CHAIRMAN. I am sensitive to the need to maintain Reserve strength, the National Guard, and national defense, including the Coast Guard Reserve. Of course, the Coast Guard is engaged in U.S. military operations like the enforcement of the sanctions out there in the Red Sea. So, you are not just coastal, you are front line troops in that context. Now I see plans to cut back about 2,000 of the Reservists, and at the same time I am seeing greater demand and potentially a need for an increase in the Reserve.



Specifically, I will never forget Rabin talking in Israel about how they could field an Army of 500,000 in 72 hours. The Israelis do that with reservists, and I think that is the posture we should shift to. As we have to cut down on the high cost of the regulars, we ought to at least be holding the line on Reserve strength, not, somewhat like the United Fund, accepting your fair share of cuts.

We should be looking for a national strategy. We must look at our support for the Armed Services, the Coast Guard. We not only get the support from these fine Reservists, but we get actual performance of critical missions. I do not understand this idea of cutting back 2,000 Reservists.

Admiral KIME. Well, Mr. Chairman, certainly we want to have the best mix between the regulars, Reserves, and civilians in the Coast Guard. All three areas are taking cuts during this budget year of up to about 100 civilians, about 300 or more regulars, and of course, the Reserves.

We have looked very closely at the justification we have for our Reserve program, because we have some very talented men and women in that program who, as you have indicated, have served us very well in the past and we are going to depend on them in the future.

We are looking at the demands being placed on us by the Department of Defense, by the CINC's, and we have been studying this for about the last 2 years. We believe we have rock solid justification for 8,000 fully trained and fully funded Reservists, and within that number we believe that we will also be able to do the nondefense-related missions that we call on them to do.

One thing that does concern me, Mr. Chairman, because we are taking a cut so precipitously; we wish that that could be avoided, but the fact that our Reservists who would be leaving involuntarily currently are not authorized to receive the same benefits the Reservists in DOD do.

One such benefit is severance pay if they have more than 6 and less than 15 years of service, and also the ability to retire early if they have more than 15 years of service and less than 20. We have been working with the authorization committee in the House, and also with Senator Nunn's committee to see if it would be possible for the Coast Guard to provide the same benefits as DOD to our fine young people. This comes at a cost of only about \$2.3 million, and so we would hope that in that area we will be successful.

The CHAIRMAN. What is the current administration policy on refugees in the Caribbean—Haitian refugees and from everywhere else? I am aboard a Coast Guard ship, and I am supposed to stop the incidence of Haitian refugees onto American shores. How do I do that? What is the policy?

Admiral KIME. Well, Mr. Chairman, you have touched on an area that has become a major responsibility for the Coast Guard since the coup in Haiti in September 1991. We began to see a massive outflow of economic migrants from Haiti, now totaling about 42,000. In fact in the first 6 months after the coup, 37,000 fled, while in the previous 10 years there were only about 25,000. This caused a requirement for the Coast Guard to put a significant number of resources down in the Caribbean.

President Bush, in May of last year, revised the Executive order and permitted us to return Haitians directly to Haiti without having interviews aboard ship or bringing them to Guantanamo Bay, Cuba. But at the same time, the policy provided greater capability for these people to be interviewed by Embassy officials in Port au Prince to see if they really did have credible refugee status.

This just about brought a halt to the efflux of Haitian migrants. But then, when word came out as a result of the election that President-elect Clinton was going to change this position, we—based on intelligence and overflight information that we had—saw a great massing of boats for a significant migration of people to the United States which would have perhaps begun in January of this year after the inauguration.

I have to credit President Clinton with recognizing the massive safety problem that this was going to cause, and with his agreement, on a temporary basis, to keep the Executive order of direct repatriation in place. At the same time, he has increased the number of people in the U.S. Embassy in Port au Prince.

The CHAIRMAN. Is President Bush's order now current?

Admiral KIME. President Clinton did not rescind the Executive order.

The CHAIRMAN. And you are operating under that order?

Admiral KIME. We are operating under that order while diplomatic initiatives established by President Clinton are being worked with the view that once we have a stable government in Haiti, that economic assistance will be made available, which is the real reason why people are fleeing the country because of the severe economic conditions in the country.

It has placed a significant burden on the Coast Guard. I announced Operation Able Manner on January 15, which involved 22 Coast Guard and Navy ships and about 17 aircraft, to hopefully act as a deterrent to a mass migration, and should one occur, prevent the loss of life.

Since January 22 I think we have had no Haitians attempt to leave from Haiti itself to enter the United States. This mission has caused a significant expenditure of effort by the Coast Guard with many resources down there—people, ships, and planes. We are, in essence, keeping our finger in the dike while the diplomatic and economic initiatives of the administration continue to work.

We are certainly concerned that if we were to pull our presence back significantly, that this could send the wrong signal and could result in a massive outflow of people and a resulting loss of life. We are very pleased that with all the Haitians that we have interdicted we have done so without the loss of a single life.

The CHAIRMAN. The losses that we have seen or heard about since January then, where are they from, Cuba?

Admiral KIME. We have seen no loss of life with the vessels that we have interdicted. There has been loss of life involving vessels that we were not able to intercept. Bodies have been washed up on the coast of Cuba because of foundering of the vessels.

You have to recognize, these people are going to sea in grossly overloaded, small, wooden boats. Maybe 30 to 50 or 60 feet long with a freeboard—the distance between the water and the top of the railing of the ship—of only maybe 6 or 8 inches. No naviga-

tional equipment, unsanitary conditions, and very, very little food and water.

The CHAIRMAN. On maritime safety—

Admiral KIME. And, Mr. Chairman, let me add that I think an example of the potential for human catastrophe that exists was born out by the tragic loss of a ferry going between two cities in Haiti where, perhaps because of the grossly overloaded conditions, over 1,000 lives were lost.

We responded as quickly and with as many resources as possible. Unfortunately, by the time we were notified, there was nothing that we could do. This was not part of a migration effort, but it points out the unsafe conditions that these people operate in on the water.

The CHAIRMAN. Well, talking about unsafe conditions, in these charter boat operations with six passengers or more, there are circumstances where they list the passengers as charters so that they can forgo any safety inspection. Can you tell the committee about that and what is intended here?

Admiral KIME. Well, Mr. Chairman, this has been a problem for the Coast Guard for a very, very long time because of the vague nature of current legislation defining what is a passenger and what is consideration for transit. People have been able to circumvent the passenger vessel safety laws of this country by offering a bare boat charter when, in essence, it indicates on the surface that they are giving up all their rights to the vessel to the chartering party when, in most cases, they are still maintaining constructive control of the vessel.

This adds responsibility to the people who charter the vessel and allows large numbers of people, in many cases young people, to be out on the water on vessels that do not meet Coast Guard safety requirements for passenger vessels, and being operated by people who are not licensed as operators.

We have about six definitions of what is a passenger under current law. That is why the Coast Guard put forward the Passenger Vessel Safety Act of 1993 in its authorization bill. That legislation now has proceeded independently in the House, basically consistent with what is in the Marine Safety Act.

We think this is much-needed legislation, Mr. Chairman. It is supported by a great number of organizations. I would just like to read you a list of who has supported this: the National Boating Safety Advisory Council, the Boat Owners Association of the United States, American Yacht Charter Association, the Passenger Vessel Association, the National Association of Charter Boat Operations, the National Boating Federation, and the National Marine Manufacturers Association.

We think we have reached a proper compromise that will still allow valid charters of vessels in a safe way, but at the same time putting an end to the loophole under which the lives of many people were endangered by the current illegal bare boat charter.

The CHAIRMAN. By that illustrious listing, apparently there is opposition. Who or what is the opposition?

Admiral KIME. We know of only one opposition to this, Mr. Chairman, and that is a group that has been recently established called the Bare Boat Charter Association. This was established by

the owner of a vessel who was cited for operating a passenger vessel without a certificate of inspection.

In this particular citation, he was underway with a group of 120 young high school seniors on a 5-hour, postgraduation party without qualified people operating the boat, and without meeting the safety standards. So, this is a good example, I think, of the concerns we have.

The CHAIRMAN. We would like to include that in the authorization bill. I know it is a separate measure in the House, but why not just put it right in the authorization?

Admiral KIME. We would certainly support that, Mr. Chairman. We think this is much-needed legislation.

The CHAIRMAN. Thank you. Senator Packwood.

Senator PACKWOOD. Admiral, I know you located two Chinese vessels that may have been driftnetting last week. I understand you found another one yesterday?

Admiral KIME. Yes, sir, we did. Driftnet fishing has been an area of real concern for us that I alluded to very briefly in my opening statement.

Let me say that as of January 1, 1993, based on United Nations action, there is a moratorium on high seas driftnet fishing. The Coast Guard, however, is not going to reduce its surveillance in the Pacific because we do not really know what the compliance rate is going to be. Each member country is really charged with policing its own people.

We have had several incidences. We have found two vessels from the People's Republic of China that we intercepted and boarded. One we spotted from the air had a significant amount of driftnet out and we saw fish on deck. We got permission from China to board, but by that time the net was back aboard and the fish were gone, and they said they were doing experimental fishing. The Chinese authorized us to send the vessel back to China, which we did.

We found netting aboard the second vessel but no fish, and they were also sent back.

Senator PACKWOOD. What does the Chinese Government do, as far as you know, when they get back?

Admiral KIME. This we will have to follow up through the State Department, Senator, and we will do that. We are working very closely with the Department of State and the other countries involved who have an interest in this region of the North Pacific—Japan, Russia, Canada, and China.

Senator PACKWOOD. In each case, when you board does the captain say, "We are involved in legitimate research"? Was it true in both instances?

Admiral KIME. Well, we have only had four incidences but they have all occurred very recently. I mentioned two and in both cases they said experimental fishing. The third one was a Honduran vessel which we spotted from the air, but it took flight to the southwest. We were not able to intercept it.

We did come across another vessel which we sighted by air, and boarded early this morning. We asked him to identify himself and he raised the flag of the People's Republic of China on the stern, and from the yardarm he raised the Japanese flag.

There still remains some confusion with this incident. We went aboard and he said he had about 10 miles of net, and we found he had a significantly greater amount of netting aboard than that. He is registered in China. We have a vessel on-scene, with people still aboard, and we are working through the State Department to receive permission to escort this vessel to Japan for turnover to the Chinese authorities.

Senator PACKWOOD. And you do not know yet if the first two you mentioned have gotten back to China or not?

Admiral KIME. No—I would doubt, Senator, if they have made it back yet. But certainly the State Department will follow through on this. We recognize this as something of great concern for the health of the salmon fisheries of the world, and also for protection of marine mammals and other creatures where ghost fishing takes place. And we are going to continue to maintain the same high level of vigilance in this area this fiscal year as we did last year.

Senator PACKWOOD. Yes, I want to congratulate you. I do not know how, with your resources spread as thin as they are, you can cover the Pacific and ever catch any vessel at anything, and you do a whale of a good job and I am very appreciative. It is an issue of immense concern to me, obviously, with my salmon fishery out of the Oregon coastal streams and the Columbia River.

Admiral KIME. Well, I appreciate your kind words, Senator, and certainly it is an area of major importance to the Coast Guard. We appreciate the support of Congress in providing the funding for the new APS-137 radar we are able to put on our C-130 aircraft that enables us to have a much greater possibility of detecting these vessels by air, which is really the way we have to do it.

Senator PACKWOOD. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman. Admiral, good morning. Thank you again for your gracious visit yesterday. I appreciate it very much.

It is sort of an echo, I guess, of some of the questions of colleagues, but as you look at the Coast Guard mission, the mission is enlarging. And you folks are really doing an extraordinary job of fulfilling an increasing mandate.

You have responsibility for drug interdiction. You have all of the fisheries and economic zone enforcement efforts. You have increasing responsibilities with marine mammal protection, endangered species, Magnuson, and so forth. You have the responsibility for all environmentally hazardous spills. Your response center, the National Response Center, has had 75-percent increase in requirements and needs, and most experts predict that spills will only increase.

You have responsibilities, as the chairman has referred to them, on the front lines as troops with respect to military operations like the blockade. We are about to enter a season where there are increasing numbers of recreational boats out there. You have major marine safety responsibilities. States like Massachusetts and South Carolina are particularly sensitive to that.

You are about to engage in a fishery licensing effort for vessels less than 200 tons in order to increase safety, which is an important effort but it requires manpower and standards and so forth to

do that. And yet the House of Representatives has just proposed to slash \$20 million off of your 1993 budget, let alone what we are talking about doing next year.

Now, I am a little confounded by it and I am concerned by it. I mean, this is to me precisely the kind of thing that breeds bad performance and bad morale. And it is not good for the purposes of any of those missions that we have given you, and ultimately not good for the country.

And I wonder if you would comment. I know you have got to speak the line to a degree, but I would really ask you for a candid assessment of your ability to meet the Coast Guard missions.

And I have not even touched on the question of aging craft, of the need to get new seagoing buoy tender vessels out there and so forth. Not to mention the question of vessel traffic safety systems. Boston was on the list for one. We would certainly like to see that soon. It is not in the budget request.

So, I have major concerns. And I think this is replicated, I might add, in a number of other areas of our Government where we mandate efforts but do not fund them, where we chastise but do not provide the means to carry out a mission.

Would you comment, please, on the general capacity of your service to meet the mission?

Admiral KIME. Thank you, Senator. I would be pleased to. I think you have really outlined the pace of operations that the Coast Guard is faced with very well—an increasing pace of operations. And the action by the House Appropriations Committee yesterday upon the initiative of the House Transportation Appropriations Subcommittee, to rescind \$20 million from the Coast Guard's fiscal year 1993 operating budget at the beginning of the eighth month of the current fiscal year came as a total surprise to us.

Neither the committee nor the subcommittee consulted with us on that. And, I am unable to address this kind of a reduction with funds that are appropriated for pay and entitlement accounts. I just cannot respond that quickly. I have a fixed workforce and it really costs me more money the first year to get rid of than I would save. Therefore, if in fact it is enacted by the House and the Senate and signed by the President, I am going to be forced to reduce both maintenance and operating accounts. And, I can only take a small portion of this out of the maintenance accounts. We have over the years been faced with cutting back on our maintenance accounts for aircraft, ships, and the shore plant as a result of budget uncertainties like this. There have been many of these.

So, this would result in a reduction of our pace of operation of at least one-third. And, this would come at a time when many things are happening. I have just indicated what is happening in the Caribbean with Haitian migrants, and the importance of that program. We have talked about migrants from the People's Republic of China. There are also migrants from Cuba, and from the Dominican Republic. This is an increasingly greater challenge to the Coast Guard.

Already, we have had to absorb this year, just for migrant interdiction operations in the Caribbean, \$6 million without coming forward for a supplemental appropriation. At the current pace, that could be an increase of \$10 million. The operational commanders

down there are asking for additional fuel moneys for aircraft and patrol boat operations, and we are going to have to say not only will you not get any additional, you are going to be cut.

At the same time, we just talked about the concern for fisheries enforcement—new fisheries plans are being put into force, new laws implemented internationally, and the question of enforcement of driftnets.

Additionally, in the last month we have seen a resurgence in the transportation of drugs by water. Within the last 30 days we have had the second largest and the fifth largest maritime interdiction of cocaine on record—11,000 pounds in the first instance, and 6,000 pounds in the second incident.

We are getting into the boating season now, where we are going to be faced with a large boating population and, certainly, search and rescue and safety of life has to take priority over all of these.

So, I think this cut comes at a very unfortunate time for the Coast Guard and for the American people. It is going to force us to make some hard decisions and, unfortunately, I have very little choice but to significantly curtail operations and try to do this in a prioritized way. Certainly safety of life is the most important priority.

Also looking at the Navy Times newspaper this morning, Mr. Chairman and Senator, I saw an article on the Coast Guard, stemming the immigration tide. It goes into great detail about what is facing the U.S. Coast Guard, and a parallel article saying how resources have been stretched. I would like to read what the Immigration and Nationalization Service spokesman said about the illegal migrant operation.

He says, "the numbers underscore the Coast Guard's importance. I think they are essential. If we allow people to get here illegally, our economic system cannot absorb them all, and we cannot effectively deport them. We would have to go back and totally revamp our immigration laws. Absent that, I think the Coast Guard plays a critical role in preventing illegal migrants from getting here and being able to assess the system. I think that signal has to be sent."

And in addition to that, as I said, people trying to get into this country come in under inhumane and unsafe conditions, and there is significant chance of loss of life. It is going to be a very difficult time, Senator, if we are faced with this cut this late in the fiscal year. We certainly have looked at the reasoning that the committee and the subcommittee put forward for this rescission, and we certainly cannot agree with it. We cannot accelerate cuts that we are planning to take in fiscal year 1994 in a way to cover anywhere near this amount of money in fiscal year 1993.

Senator KERRY. Well, I appreciate that answer. I suppose it might be worth noting that the House appropriations subcommittee does not have a representative from a State that has water on its boundaries, if I am correct.

Admiral KIME. I believe you are correct, if you say that their district does not have a significant amount of water.

Senator KERRY. Well, that may be reflected perhaps in their attitude about some of these missions. But it seems to me that if we are still at a \$3.8 billion level for star wars, notwithstanding Secretary Aspin's dismantling of the concept, the expenditure is still



there. We are stripping \$20 million from you folks at a point when your mission is expanding, and in the face of a clear, direct return on investment.

I mean, with respect to Government agencies, I think you provide us one of the greatest returns on investment. And I think we ought to really be looking at that hard. I am confident the chairman will have much to say about what happens.

The CHAIRMAN. Well, that \$20 million cut in the last quarter would translate into an \$80 million cut for next year. We cannot afford that. The rescission would have to be taken out of the whole cloth. And we are trying our best to increase the Coast Guard budget. Senator Stevens, whom we will recognize in a minute, and I are on the Defense Appropriations Subcommittee. I mean, in cutting back, our colleagues are really relying on us to get \$20 million more out of defense, when we ought to really establish a firm budget that the Coast Guard can count upon and not have to have a struggle each year.

Excuse me, Senator.

Senator KERRY. No, I appreciate that, and I think that is a critical point. You folks should not have to beg, borrow, and steal from DOD or DOT, or wherever the funds are available. I think there ought to be a fixed sense of what assets are available to carry out the mission.

I have a couple of other questions. I do not need to belabor them now. I am concerned about the impact the fishing licensing process is going to have on our fishermen, and perhaps even on your own budget. You might just comment quickly on that if you can.

Admiral KIME. Senator, we have approached the question of licensing of fishermen, because, by law, we were asked to look into this. We have found in a study that we sent up to the Congress in January of last year that we average about 250 fishing vessel sinkings a year, with the loss of over 100 lives. And this represents, in numbers of cases, about 10 percent of our search and rescue workload, and about 20 percent of the overall sortie time—that is time that ships and planes are underway.

We are concerned about this loss of life, and we believe that a great part of it is due to lack of knowledge of fishermen in the safe operation of a vessel, and overloading conditions, and not recognizing the importance of watertight integrity. We think that the answer to this is education. Certainly, we have tried voluntary programs, and the massive loss of life still continues. We have put forward, in the Marine Safety Act, a proposal for authority to license one person on each fishing vessel—just the master—and to do this in a way that we hope is the least intrusive upon the lives, rights, and pocketbooks of fishermen.

This is something that we would phase in over a 7-year period. Their involvement with the Coast Guard would be by mail. We would require them to complete a course of instruction from a safety school that the Coast Guard would certify, and meet certain other background requirements to receive the license. We are talking about doing this over a 7-year period, where there could be some grandfathering for those experienced fishermen who have been out on the water a long time, thus easing the burden.



There would be some expense to the fishermen as a result of this—perhaps \$200 to \$250 to attend the course, and perhaps for the entire industry an overall cost of \$5 million. We would like to minimize the impact of that by a phase-in period, plus working with the contractor, with the fishermen, and the public during a regulatory project. The goal is to save lives without placing an inordinate burden on the fishermen.

Senator KERRY. I would note that obviously, given the sortie time, the rescue time, and the dangers, I think it will more than pay for itself. But I think the more attention you can pay to minimizing the hassle, the bureaucracy, and the time consumption, the more you can improve access and bring people into the process, the greater benefit to everybody.

Thank you.

Admiral KIME. Thank you, Senator.

Senator KERRY. I really appreciate your comments very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Stevens.

Senator STEVENS. Thank you, Mr. Chairman.

Well, I echo what the Senator from Massachusetts has said. Your 17th District has almost 34,000 miles—more than one-half of the shoreline of the whole United States. And when you figure the 200-mile limit off of that, you just have a vast area off of my State.

I was reminded that The Bear, your 17th Coast Guard District magazine, tells of just a few things that happened in the winter period of this past year—assisting a sinking vessel in the Bering Sea, med-evacating a Russian soldier from Big Diomedes, locating lost Eskimo snowmobilers in the area of Nunivak Island, picking up 120 pounds of marijuana from an Alaska beach. I think when we look at the safety point of view, as you know, I have a son on one of those vessels that operates out of Dutch Harbor. And I note that 70 commercial fishermen died in Alaska in the past 2 years, mostly from drowning and hypothermia. And we now call commercial fishing our deadliest occupation.

We have given the Coast Guard a great deal of responsibility and authority, and I am certainly not going to countenance the concept of reducing the funding once we fight for it and get it. I hope that we can convince the House not to take the action that you have remarked about. I was going to ask a question about that. I am glad to see that the Senator from Massachusetts has asked that.

But let me go into a couple of things, if I may, Mr. Chairman. I certainly am pleased and honored that you gave me the chance to cosponsor this bill, because I think that the Coast Guard is really the most valuable Federal agency that deals with Alaska. There are actually repeated examples of being midwives on some of the rescue missions that they have to make off those islands, where people have absolutely no medical attention available.

Senator Packwood mentioned the problem of the driftnets. It is my understanding there were four vessels altogether, and that you did pick them up by your radar in the first instance, and they sort of mushroomed, but you proceeded now—and I think the message ought to be to everyone—it is my understanding you have apprehended all four now?

Admiral KIME. We have succeeded in boarding three of the four, Senator. We have an identification of the fourth, and we are still looking for it. I think this is indicative of the level of effort that we are going to sustain in enforcement of this moratorium on driftnet fishing in the Pacific. And if this is an indication that we need to step up a bit, then we are certainly going to do that. But we are trying to take as effective and as prompt enforcement action as possible. This is something of real significance—not just for the United States, but to the international community too.

Senator STEVENS. Well, I want you to know that I have already discussed this matter with the Chinese Ambassador to the United States. And I am going to China next week, so I intend to discuss that there with our State Department officials and with the Chinese Government. My preliminary impression is that the Chinese did not get permission for these vessels to have a China flag involved in carrying driftnets. They all were carrying driftnets, rather than using them; is that not correct, Admiral?

Admiral KIME. One, Senator, actually had nets in the water and fish on deck.

Senator STEVENS. Did they?

Admiral KIME. Yes, sir.

Senator STEVENS. Which one was that?

Admiral KIME. The 601 or the 602. Let me provide that to you for the record. And, in fact, if you would like, prior to your visit to China, I would be pleased to provide you with some detailed information on all the cases that we have so far involving their vessels.

Senator STEVENS. I think it would be helpful if you could get that. Senator Inouye and I are going together. If we could have—if there are any photographs available, that may not be possible, but we would like to have a report. We have asked to meet with the Chinese officials that might have responsibility in this area. And next week we will be able to do that. I would like to be able to follow through with it. The Chinese Ambassador here was very helpful, and I think we can pursue it while we are there.

Again, my congratulations to all your people involved, though. I think that really shows the admirable determination to have pursued all of those. I do hope you get the Honduras one. It is Honduras?

Admiral KIME. Yes, sir.

[The information referred to follows:]

A U.S. Coast Guard HC-130 aircraft surveillance flight observed the Chinese-registered fishing vessel *Yingyu 601* driftnet fishing on May 10, 1993. At the time of this sighting, the vessel was retrieving its nets, had fish on its deck, and had approximately 2 miles of driftnet still in the water. While the Honduran-registered fishing vessel *Sarn Fa No. 37* was observed to have driftnets stowed on deck and Coast Guard boarding teams found driftnets aboard the Chinese vessels *Yingyu 602* and *Dayuanyu 206*, the Coast Guard did not observe them actively engaged in driftnet fishing.

Senator STEVENS. On these fuel storage facilities, I want to thank your people for trying to work with our native people. In the villages of Alaska, they have a tough time upgrading facilities that are so old. And I understand from our Department of Environmental Conservation that the estimates are between \$200 and

\$400 million will be required for these village people in the rural communities to repair their tank capability to store fuel.

It is further my understanding that you have limited flexibility, really, under the law to provide a grace period. To the extent that you can, I urge you to do so. I do not think we are asking at all to be exempt, but I do think that there is a very difficult period ahead for these remote villages, which are strapped for funds to begin with, to be required to upgrade these tank farms. Most of them were built by the Federal Government in the days when the Bureau of Indian Affairs had total responsibility for the schools and some of the facilities in these villages.

Now they do not have that basic assistance. We are going to have to find a way to do that. But could you tell me, do you think that there is a need for us to give you some leeway in the law so that you can have a grace period? I am not asking for one to be an automatic one for the villagers. I am asking that you and your people, in your wisdom, could have the time to work out with these communities the timeframe for the repair or replacement of these tanks.

Admiral KIME. Senator, I am not certain that we would need a change in the law. We have minimal flexibility, but I believe we have enough. We have a very outstanding cooperative effort going with the villages, with the ADEC, and with the government of the State of Alaska. Governor Hickel himself is personally involved in this, and I know you are involved. Admiral Rufe, our district commander up there, is also involved.

We are looking at ways to provide equivalent levels of safety, where pollution response equipment is required. We are working with the vessels that visit these ports to make certain that they can bring with them pollution response equipment should there be an incident during a transfer.

We are providing assistance in developing response plans where necessary. We cannot provide assistance in making the necessary repairs, but I think what we are doing is providing the necessary equivalent safeguards in the interim, to be certain that we are not totally shutting off a very necessary function, because there is no way to get fuel to these villages other than through these facilities—but, at the same time, not placing the environment in jeopardy.

Senator STEVENS. Well, I thank you for that. And your Anchorage office has really worked very hard with ours to try and assure these people that they will have the time—they call it a grace period, but, in any event, if you have any need for increased flexibility, I hope you will let this committee know.

Now, on the vessel response plan, you already discussed that, too, I think. But I am informed now, through your liaison office, that there was no problem anticipated in processing all of the applications before the August deadline. However, if that is an inflexible deadline, and should there be a problem on that, I hope you will notify this committee also.

Admiral KIME. We certainly will, Senator. The information that our liaison office gave you is correct. We have gotten in between 105 and 110 percent of the number of plans that we thought we would get. But by mobilizing our resources and acquiring the serv-

ices of a contractor and doing this review in two stages, I think we will be able to meet the August 18 deadline.

Senator STEVENS. Now, on the vessel operator licensing proposal, there again, I think the Senator from Massachusetts mentioned it, it is my understanding that the grandfathering authorization that you and I discussed before at the appropriations hearing is not included in the reauthorization bill. There is no authority to pursue the 7-year proposed implementation period and the grandfathering that would enable those who have substantial experience to be able to be licensed on the basis of experience.

Would you look at that and tell us whether that should be added to this bill?

Admiral KIME. Senator, we thought we had that leeway in the bill, to do that administratively under the Administrative Procedures Act when making the rules. But let me take another look at it and see if in fact specific language is needed to either be put in the report, or in the bill itself, because that is fully our intent, to implement it in the way you just described and the way I spoke about it in answer to the previous question.

[The information referred to follows:]

Currently, most fishing industry vessels of less than 200 gross tons do not carry licensed operators. The sudden implementation of a statutory requirement for their carriage would cause a shortage of licensed personnel in the fishing industry. In order to maintain a sufficient quantity of trained individuals while assuring compliance with the law, the provisions of the 7-year phase-in period discussed in the licensing plan will effectively address the procedures to follow for these fishermen to operate legally.

The plan calls for selected eligibility requirements to be grandfathered for fishing vessel operators who show a specific amount of experience on fishing vessels prior to the enactment of legislation. Applicants eligible for selected requirements will be subject to: third-party training limited to personal survival, stability, and rules of the road; limited operations between sunrise and sunset if color vision deficiencies exist; minimum visual acuity of uncorrected vision in the better eye of at least 20/400 correctable to at least 20/40; an average hearing threshold of 40 db in each ear at 500, 1,000, 2,000, and 3,000 Hz levels and/or functional speech discrimination of at least 90 percent at 55 db in both ears with the use of a hearing-aid, and no sea service recency requirements. Individuals with past criminal convictions will be allowed to continue to operate vessels during the application acknowledgment period; acceptable evidence of rehabilitation will be shown if he or she displays a conformance with local laws and a negative criminal records check.

The proposed legislation authorizes the Coast Guard to issue regulations for licensing commercial fishing industry vessel operators. Existing statutes contain sufficient authority for the Coast Guard to determine by the regulatory process, the eligibility criteria for individuals with the required experience. Therefore, no additional legislative language would be necessary to grandfather selected eligibility requirements.

Neither the proposed nor existing legislation limits the period during which the Coast Guard must implement these licensing regulations. Absent congressional direction to the contrary, it is within the Coast Guard's discretion to implement a reasonable phase-in period to facilitate the continued employment of personnel currently operating fishing vessels and mitigate the impact on the industry.

Senator STEVENS. I think I should tell the chairman that we also discussed in the Appropriations Subcommittee hearing the possibility of looking to the military construction account for some of the Coast Guard facilities. We have never done that before. I hope that you will pursue that as we have requested, because there are no Coast Guard construction funds, as I understand it, in the budget this year, and we might be able to find a way to include some of

those that have a military significance in the military construction account.

Again, that is a matter for the record, Mr. Chairman, but we have got to have some recognition, particularly in peacetime, of these increased responsibilities that go to the Coast Guard. Some of them during periods of crisis are handled by the Navy and in peacetime the Coast Guard has the total responsibility. And of course, in crisis time, it becomes Navy anyway.

So, we have got to find a better way to get this on a permanent basis of how much military responsibility there is for the Coast Guard budget.

The CHAIRMAN. Well, on that score, the Coast Guard has 250 large ships, 220 aircraft, 16,000 buildings and structures, and the Coast Guard estimates that around \$650 million a year is necessary to maintain this equipment and structures. And we only allocate about \$400 to \$450 million. So, each year there has been a shortfall.

How do you handle it?

Admiral KIME. Well, we are delaying maintenance, Mr. Chairman, and we are delaying replacement of vessels. The buoy tenders we are replacing now are almost 50 years old. We are operating with two icebreakers instead of three. Hopefully, we will have three very shortly. We operate our aircraft until they are 20 or 25 years old. And, maintenance of our shore plant is neglected. I think that is what has been happening.

Last year, of course, we only received about \$363 million in AC&I funds to do this. I appreciate your concern about this, because this is an ongoing problem, and the longer we wait to address this, the bigger the problem becomes. And we are concerned that what is now a maintenance problem, in many cases, will become a replacement problem in the future.

Senator Stevens, I appreciate your comments about funding. It was before my time as Commandant, but I believe that the MILCON account did provide \$50 million, way back in 1989. So, there is some precedent for this type of action.

Senator STEVENS. Well, we do have to examine that.

Mr. Chairman, you know, I see the Coast Guard all over my State. I can never remember a Coast Guardsman telling me "No, that is not my job, no, I have already worked 8 hours, no, I cannot do this or cannot do that." They always find a way to do what needs to be done. It is just a fantastic attitude, and I think we have got to be sure we have the facilities for them and the basic systems that they need for their own safety and to pursue their jobs.

Now, I understand that the icebreaker is on track. There are two proposals that the Navy has received for the construction of that polar icebreaker, and we remain interested, primarily because I think the Soviet icebreaker fleet that we have called upon several times and you had to call on once yourself, that it now is rumored to be being kept fairly close to port. Their funds are going down, too, and they have done the yeoman's job in the North Pacific, as far as icebreaking. We really need that system online.

Admiral KIME. Well, Senator, we have also relied on help from our Canadian friends in icebreaking in the past, too, and they are facing austere budget times also. We are very optimistic that we

will be letting the contract to one of the two bidders for the third polar icebreaker in June or July of this year, as we had promised this committee and you personally that we would make a very strong effort to do when we testified last year. I believe we are going to be able to make good on that promise.

Senator STEVENS. I may have some other questions. I just have one last one. I understand that there is a proposal now that has been sent to the committee to exempt unmanned seagoing barges that do not carry hazardous materials from the inspection requirements that were established in Chapter 33 of Title 46 of the U.S. Code. I want to applaud you for taking efforts, making the effort to eliminate unnecessary and costly regulatory burdens, but I also want the record to be clear now that it is my understanding you do support that proposed exemption, and have found that there is no environmental or safety concern if it is agreed to by the Congress; is that correct?

Admiral KIME. That is correct, Senator. We feel that this is an unnecessary burden on the industry and on the Coast Guard, that reviewing the history of these vessels they have not posed a safety or environmental hazard. These are unmanned vessels having no people aboard, and not carrying hazardous materials of any kind, and we feel that this is an initiative that should go forward. It is part of our Maritime Safety Act that has been delivered to the Hill and I certainly strongly endorse it.

Senator STEVENS. The Eskimo people of the Arctic Slope region of Alaska very seriously support that. They are the ones that are supported annually by a barge train, and most of their barges are those that would be exempt because they do not carry hazardous materials and they have no people on board. I am quite anxious to see that approved, but I also want it to be very clear that you had supported it.

Again, Mr. Chairman, let me thank you. I think this bill before us has a 4-percent increase, it would authorize a 4-percent increase, as I understand it, in the Coast Guard budget. That is really not sufficient for the duties that we mandated last year. We mandated more than a 4-percent increase in your costs. And I think we have to, as the chairman said, take a good long look at this and make sure that you have the money.

Or was that the Senator from Massachusetts, Senator Kerry also mentioned it. But I know the chairman did, too.

We have every reason to absolutely support your activities, and again, as one who worked with the chairman, we started the whole concept of the driftnet sanctions, and there are some very severe sanctions in our law for a nation that permits its vessels to use driftnets. And they are automatic. And that is why I want to have this conference in the PRC about the use of their flag for vessels that may not have been of Chinese origin. That has been inferred by your concept that there was a Japanese flag on the yardarm.

Now, that kind of misuse of a flag, if it has taken place, is very serious I think, and the Chinese, I am sure, will be willing to discuss that. I hope they will. But we need to be very sure what nation really is involved if there is a sanctioned use of driftnets, because our basic law now is very swift and sure as far as the penalty for that. And I congratulate you for the work you have done and

your people. I do hope that you will find a way to publicly commend those who have been so persistent in pursuing these driftnet vessels in the North Pacific.

Thank you, Mr. Chairman.

Admiral KIME. We certainly will, Senator, and thank you for your kind words. And we will provide you with all the information we have before your departure for China later this week.

Senator STEVENS. That is noon on Friday.

Admiral KIME. Yes, sir. I understand.

The CHAIRMAN. I do not see how you can almost—how you cover the State of Alaska. I have been to the station there in Anchorage. I have been out in Cook Inlet. You took me out there.

Senator STEVENS. We hope to take the chairman to Kodiak in August. We have to have the Magnuson Act hearing out in Kodiak.

The CHAIRMAN. I hope we get better fishing next time we go. [Laughter.]

Senator STEVENS. I think the Admiral would note that there are a lot of people over there that have little time for recreation, and they know where to go. And they can go very quickly.

The CHAIRMAN. Well, the Coast Guard does an outstanding job. Talking about structures and shortfall and the defense construction appropriation itself, is there any coordination whatever, Admiral Kime, with respect to you and the base closure initiative now? I would not like to lose any facilities in my own back yard, and we think we have had one of the more outstanding hearings. It is yet to be decided though. It seems with the shortfall and everything else that there are base facilities that could be used by the Coast Guard. Is there any assignment within the headquarters of the Coast Guard, to hear the proposals? If they do approve the base closure list this year then we ought to be looking at these facilities at A, B, and C locations. Is there any initiative or ongoing review?

Admiral KIME. There is, Senator. We are very much concerned about the impact in the Coast Guard, both positively and negatively, potentially brought about by base closures. We have watched the preliminary list very, very carefully, and are looking at each of these potential closures as to the impact it could make on the Coast Guard, and we anxiously await the final list that will be coming out this summer.

We certainly are availing ourselves of housing that is being made available from DOD, and in several cases we are purchasing housing from DOD to avoid having to build new housing. We also are looking at other facilities that they may be vacating. In Fort Dix, the closedown or the shrinkage there has enabled us to find space to provide a new structure for our Atlantic Strike Team.

For the most part, Senator, the types of facilities that they are talking about closing down are much too large for the Coast Guard to actually come in and take over.

On the negative side, the closures of some of these facilities is going to have an adverse impact. Obviously, if the naval facility in Charleston is closed down, and we keep a Coast Guard medium endurance cutter in Charleston we would have to find a place to relocate that vessel. It would also, in the absence of the Navy being there, cost us more to maintain that vessel because Navy facilities would not be available. The same is true all over the country.



Also, it impacts our people, because we rely in many cases, on DOD for commissaries, exchanges, and I think most importantly, medical facilities, and that is going to have a very adverse impact.

In addition to that, we have at least three air stations that are colocated with a DOD facility: our air station in Sacramento, CA, our air station at Barber's Point, HI, and our air station in Chicago. These obviously are going to pose real problems for us to be able to relocate or to continue to operate these under some arrangements, if possible.

The CHAIRMAN. What is the total complement of personnel in Charleston that rely upon the hospital or medical facilities? That is of interest to me, because we have a unique capability in Charleston which may be affected by the base closings.

General Johnson on the Closure Commission was a very active participant in Desert Storm. He commanded the military airlift command. We had what we call Desert Express, an around-the-clock operation, where every day at 12 noon two C-141's took off and landed 17 hours later in Dahrhan. In turn, we were set up to bring casualties out. We not only altered a gymnasium to hold some 200 beds, but we also use the naval hospital and some eight local hospital facilities in Charleston.

There is no other place on the Atlantic seaboard, should we get involved in Bosnia or in the Persian Gulf again, to really evacuate and attend to the casualties. You cannot bring them to Washington or Baltimore, or New York. However, you can bring them to Charleston where they will receive first-rate medical attention because of the facilities there.

I am interested also because Myrtle Beach Air Station, the airbase that was closed, has 20,000 to 25,000 individuals who relied on that particular facility, and now will have to come to the Charleston Naval Hospital. How many do we have in Coast Guard personnel presently relying on medical facilities in Charleston?

Admiral KIME. We have over 300, Senator.

The CHAIRMAN. That is what I was thinking.

Admiral KIME. That is 300 active duty, and when I add in the dependents that figure becomes 700 or 800. So, it is a significant impact.

I have four cutters, as you know, in the area, plus a group office, a base, a station, and a marine safety office, aids to navigations teams—representing a real significant presence of the Coast Guard in the Charleston area. As you know, we are just in the process of completing a new air station in Charleston that should be on line late this fall or early this winter.

The CHAIRMAN. Right. Let me ask you one final question and we will go to the Coast Guard Reserve, Admiral. And by the way, we want to keep the record open for questions from several of the subcommittee members who have expressed regrets. Because of conflicts, they could not attend the hearing. But they will have important questions for you to respond to on the record.

With respect to licensing a commercial vessel, do you test for drug use?

Admiral KIME. We have a program in place, Mr. Chairman, for drug testing of merchant mariners; yes.



The CHAIRMAN. Merchant mariners. Now, I am a merchant mariner and I have a vessel, and I come to the Coast Guard to license a vessel. Am I required to take a drug test?

Admiral KIME. No, not when licensing a vessel. If you are required to operate a vessel, to have a Coast Guard license or a document, then we do require drug testing based on laws that have been passed and regulations we put into place, and these are preemployment tests, periodic tests, random tests, and tests for cause.

The CHAIRMAN. And has it been tested in court? I support drug testing, but there is some controversy about it, as you know, up here on the Hill.

Admiral KIME. Well, there is reluctance, I think, on the part of people to subject themselves to this kind of testing. But we think it is necessary because of the safety involved, the types of materials that are moved, the lives that are at stake, and the danger to the marine environment.

But, Mr. Chairman, we have tried to do this in a way that places the least burden on the merchant mariner that we possibly can, and we have just recently revised the rule on preemployment testing, because the marine industry is much different from any other industry.

People go to work for another industry, and it could be even in transportation, and tend to work there for some time. Merchant mariners change jobs very frequently, and we want to make sure that our rules provide adequate coverage there, but are not an undue burden. We have to recognize that merchant mariners live aboard ship. That is their home, sometimes for months at a time. I think we have tailored our rules in that regard.

We have found that the industry for the most part has been very, very supportive of what we have done, because they are very much concerned about lost time, casualties, et cetera.

So, we believe we have a good system in place. We are constantly monitoring it, and we are working very closely with the Secretary of Transportation because all of the modes have rules of some kind, and we would like to have them as consistent as possible, very reasonable, and at the same time, recognize the peculiarities of all the modes.

The CHAIRMAN. Has it been tested in court?

Admiral KIME. I believe there have been some suits, Mr. Chairman, that have been filed as we went through the implementation stage, but I believe now that having changed our regulations, we have no legal barrier in the courts to continuing with the program that we prescribed and that I just described to you.

The CHAIRMAN. And the random testing of personnel within the Coast Guard, I know it had a dramatic drawdown on the incidence of drugs. What was the figure given to the committee? I think this was a few years ago.

Admiral KIME. Senator, I think all of the military services had an average positive drug test result rate in the vicinity of 10 percent when we first began this program. Now, for the Coast Guard it is much less than 1 percent positive, around four-tenths to seven-tenths of 1 percent. So, it has had a dramatic deterrent effect, and

that is what we hope will also take place among merchant mariners.

The CHAIRMAN. Well, there are a few examples that I can give to contradict the sing-song that you constantly hear: get rid of the Government, the Government is the enemy, the Government is not the solution, the Government is the problem. So, I say, with regard to the Coast Guard, now wait a minute, they are Government-recruited and volunteers that join. They are Government-trained, Government-clothed, Government-housed, Government-fed, Government-deployed. They are not overpaid, and it is working.

There are certain things the Government can do. You know, this is a pollster environment. These silly children who take polls and never have run for office have a veritable drumbeat of whether you are for or against taxes. They ought to ask whether you are for or against paying the bills. And with respect to Government, I can at least point to the Coast Guard, and no one has ever countered me on that.

The Coast Guard has built up tremendous credibility. It is more than deserved, and it is unfortunate that we have not financially supported it here at the congressional level. There are several of us that keep beating on the drum, and yet we must snooker money from military construction or from defense appropriations to keep you out there and going.

But let it be known that we finally will get the funding. For example, when the House cut \$20 million, that was not an indictment of the Coast Guard nor a belief that they could save \$20 million. Some members are just thinking that the Coast Guard is so necessary and does such a good job that we will find the \$20 million from somewhere else. We are not going to cut your ongoing budget some \$20 million this year in the last quarter. We cannot afford it. That is stupid, economically, in my opinion.

We will leave the record open, Admiral. We appreciate you and your colleagues being here this morning very, very much, and unless you have something further we want to move now to Comdr. William E. Legg of the U.S. Naval Reserve.

Admiral KIME. Thank you very much.

The CHAIRMAN. The Director of Naval Affairs for the Reserve Officers Association, Commander Legg, we welcome you to the committee. We have your statement in its entirety and it will be included in the record. You can deliver it as you wish.

#### **STATEMENT OF WILLIAM E. LEGG, USNR, COMMANDER, DIRECTOR OF NAVAL AFFAIRS, RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES**

Commander LEGG. I have a short summary I would like to present, Mr. Chairman.

It is my pleasure to be here this morning to represent the Reserve Officers Association, and to discuss the 1994 budget request for the Coast Guard.

The CHAIRMAN. Are you any relation to the Leggs in Charleston? I never have heard that name before in this area?

Commander LEGG. Well, I am afraid I cannot find anyone in my family history that is of notoriety that I want to attach to, or wants me I guess.

The CHAIRMAN. There was one who ended up as a Justice in the Supreme Court in the early days. He was chairman of our Judiciary Committee, and the finest fellow that ever lived, Lionel Kennedy Legg, and his family is still around. Some are in Denver, and some are in Charleston.

Commander LEGG. I was in Charleston about 2 weeks ago, walking along Rainbow Row, and noticed a house there that was his; yes, sir.

The CHAIRMAN. That is right. That is where Mrs. Legg lived, and now she is over in what we call the Fort Sumter Hotel. Very good, sir. Please, proceed.

Commander LEGG. Well, it is my pleasure, as I said, and I want to support the Coast Guard budget request before the Congress this year, and say that the \$3.812 billion for the Coast Guard is a rational amount of money for a service that performs so efficiently and effectively, as you alluded to before.

We consider the Coast Guard one of the best buys for the American taxpayer, and deserves the full and positive consideration by the Congress. However, there is one area where the budget request does not take advantage of the best buy philosophy, and that is the Coast Guard Reserve. If the budget request is approved, the Coast Guard Reserve will be reduced by almost 25 percent in 1 year, to a new low of only 8,000 personnel. The Coast Guard Reserve has not been this low since its inception more than 50 years ago.

Over the past several years, the Coast Guard Reserve has faced the problem of insufficient funds. It has been authorized an end-strength of 15,150 for each year since 1990. But the funded level has steadily declined from a high of 12,000 in 1990, to 10,500 this year. The request for \$64 million in the Reserve training appropriation for 1994 is \$9 million less than was appropriated last year, and is about \$11.2 million less than is required even to maintain 10,000 Selected Reservists.

The failure to take advantage of the efficiencies available through expanded use of the Coast Guard Reserve is especially puzzling in light of the past performance of these Reservists and the knowledge that the Coast Guard Reserve has unique capabilities in law enforcement, and is also subject to involuntary recall by the Secretary of Transportation to respond to domestic emergencies.

ROA has been at the forefront of those calling for updated statements of manpower requirements and the development of new force mix alternatives for each of the armed forces. The Coast Guard Reserve was not included in an independent analysis performed for DOD by the Rand Corp., and liaison with Coast Guard headquarters confirmed that the Commandant's staff is embarked on its own analysis of Coast Guard Reserve personnel requirements.

But we have been assured that this study is not yet finished. The last word we heard was that it would be finished some time in July. More recent conversations indicate that July may be overly optimistic for completion of this study. So, we are operating with a fact that the 8,000 figure is preliminary and a best estimate. The Coast Guard Reserve, therefore, is programmed for an abrupt cut to a strength level that is still not based on firm requirements.

And, as Admiral Kime mentioned, even if these new requirements are validated, it is not logical to subject Coast Guard Reserve personnel to such drastic cuts in a single year, particularly in light of the fact that they are not covered by the Reserve transition benefits package that Congress enacted for the DOD Reserve components last year.

We realize that neither the authorization nor the funding of the Coast Guard Reserve is under the direct jurisdiction of this committee; however, we do understand the support that you and members of the committee have provided, and we will call on you once again to help us rationally fund and authorize the Coast Guard Reserve.

That is the summary of my statement, Mr. Chairman. I stand ready to answer any questions you may have.

[The prepared statement of Commander Legg follows:]

#### PREPARED STATEMENT OF COMDR. WILLIAM E. LEGG

It is my pleasure to report to this committee concerning United States Coast Guard Budget.

The Reserve Officers Association has consistently supported adequate resource allocations for the United States Coast Guard. Over the past several years it has required extraordinary actions by the Congress to provide the necessary authorization and funding for this unique armed force.

The multi-mission nature of the Coast Guard and the professionalism and flexibility of its personnel have been both a curse and a blessing. The ability of the Coast Guard to do so much with so little has encouraged some to continue to increase taskings without allocating all the needed resources.

#### COAST GUARD BUDGET REQUEST

The President's Budget Request includes a relatively modest \$3.812 billion for the Coast Guard. Although this level is about four percent more than the funding provided for Fiscal Year 1993, all but slightly more than one percent of this growth is to accommodate the impact of inflation. However, even this moderate rate of "real" growth is more apparent than real because of the unusually low level of funding in the Acquisition, Construction, and Improvements (AC&I) appropriation in Fiscal Year 1993.

Therefore, once again the overall Coast Guard budget request reflects one of the "best buys" for the American taxpayer and deserves full and positive consideration by the Congress.

#### SELECTED RESERVE STRENGTH

However, there is at least one area where the budget request does not take advantage of the "best buy" philosophy—the Coast Guard Reserve. The President's Budget Request includes plans for a dramatic decline in the size of the Coast Guard Reserve. If approved, the Coast Guard Reserve would be reduced by almost 25 percent in one year to a new low of only 8,000 personnel at the end of Fiscal Year 1994.

As we noted last year when we objected to the cut to 10,850 proposed for Fiscal Year 1993, the Coast Guard Reserve had not been at a strength level less than 11,000 personnel since the early stages of the build up for the Viet Nam conflict. We are now facing a cut that would be of such magnitude that our records, which only go back to the 1950's, indicate that the Coast Guard Reserve has not been as small as 8,000 personnel since the earliest days of its inception more than 50 years ago.

Over the past several years, the Coast Guard Reserve has consistently faced the problem of insufficient funds. The Congress provided authorization levels that would have permitted some growth. In fact, the Coast Guard Reserve has been authorized an end strength of 15,150 each year since Fiscal Year 1990, but the funded level has steadily declined from the "high" of 12,000 in Fiscal Year 1990 to what is now planned to be an interim low of 10,510 for Fiscal Year 1993.

The difficulty in securing the necessary funding over the past several years has had its roots in the inability of the Coast Guard to identify credible mobilization manpower requirements and then obtain Department of Transportation approval of

a plan to grow the Reserve Force required by the Coast Guard to meet the majority of these documented requirements.

Another source or the problem of obtaining necessary funding is poor timing. The Administration's plan to increase the size of the Coast Guard Reserve to 95 percent of its mobilization requirements did not receive final approval until DoD was starting to plan reductions in its force structure, including the Reserve Components. As we stated last year, the Coast Guard Reserve "missed the 'ride up,' but [is] certainly being programmed to 'ride down.'"

The shifting of funding sources for the Reserve Training appropriation from the historical sole dependence on the Transportation Appropriations Bill to split jurisdiction between Defense (Function 50) and Transportation (Function 400) for Fiscal Years 1992 and 1993 also adversely affected attaining adequate funding for the Coast Guard Reserve. In fact, there was not unanimous agreement either between the two houses of Congress or the Administration on whether dual funding should be used and, if so, to what degree. The result was that although the authorized personnel strength exceeded 15,000 for both these years, the funding provided would only support 11,500 and 10,510, respectively.

The request for \$64 million in the Reserve Training (RT) appropriation for Fiscal Year 1994 is \$9 million less than the level appropriated for Fiscal Year 1993 and is approximately \$11.2 million less than is needed to maintain even 10,000 Selected Reservists.

The rationale for this dramatic reduction was given by Secretary Pefia as, "This downsized force is based on the Coast Guard's review of its defense-related mobilization requirements."

It appears that the Coast Guard has forgotten that its Reserve also has the demonstrated capability to assist in the performance of the Coast Guard's peacetime missions. The Coast Guard Reserve routinely provides significant support to the active force through augmentation training and such innovative programs as "Summer Stock" where Reservists assume the full responsibility for specific search and rescue operations on the Great Lakes that are not operated on a year-round basis. Coast Guard Reservists also provided meaningful support in response to the Exxon-Valdez incident, the San Francisco earthquake, and hurricane Andrew, to name but a few of the occasions when individual Reservists have volunteered and performed essential services. Naturally, a dramatically smaller Selected Reserve will result in a proportionally smaller pool of personnel available to meet future contingencies.

The failure to take advantage of the efficiencies available through expanded use of the Reserve Component is especially puzzling in light of the past performance of Coast Guard Reservists and the knowledge that the Coast Guard Reserve has unique capabilities in law enforcement and is subject to involuntary recall by the Secretary of Transportation to respond to domestic contingencies.

ROA has been at the forefront of those calling for updated statements of manpower requirements and the development of new force-mix alternatives for each of the armed forces. The Coast Guard was not included in the independent analysis performed for DoD by the RAND corporation. Liaison with Coast Guard headquarters confirmed that the Commandant's staff is embarked on its own analysis of Coast Guard Reserve personnel requirements. But, as recently as two months ago, we were assured that there was no possibility that this task would be completed prior to this July. This fact is consistent with other information that categorizes the 8,000 figure as "preliminary" and a "best estimate." It certainly appears that the Coast Guard Reserve is programmed for an abrupt cut to a strength level that is still not based on firm requirements.

Even if these new "requirements" are subsequently validated, it is not logical to subject Coast Guard Reserve personnel to such a drastic reduction in force size in a single year, particularly in light of the fact that they are not covered by the Reserve Transition Benefits program enacted by Congress last year for DoD Reserve Components.

Indications are that the Coast Guard Reserve is already planning on reducing strength to approximately 10,000 by the end of this fiscal year by stopping new accessions. Next year, the involuntary transfer of personnel out of pay status and to the Individual Ready Reserve (IRR) will also be required to meet the projected 8,000 level.

#### FULL TIME SUPPORT PERSONNEL

ROA is also concerned over the projected cut in what is already the lowest level of full-time active-duty military support personnel of any Reserve Component. The President's Budget Request would lower the number of such personnel from 570 to 482. This 15 percent reduction seems inappropriate for what is acknowledged to be,

by far, the lowest ratio of Selected Reserve to active-duty support personnel in any Reserve Component.

ROA has objected to such reductions on the basis that it is a prime example of counterproductive fiscal action. Improving the ratio of support personnel to Selected Reservists will increase readiness and efficiency by enabling Reservists to spend time training for their mission or assisting the active force instead of performing the many administrative support functions that are required today. Therefore, ROA recommends that the level of Full Time Support (FTS) personnel not be reduced in Fiscal Year 1994.

#### SUMMARY

In summary, the Reserve Officers Association supports funding the Coast Guard at least at the level requested in the President's Budget submission, \$3.812 billion. In addition, ROA strongly recommends that the Coast Guard Reserve be authorized at least 10,000 Selected Reserve personnel and 570 full-time active-duty support personnel and that \$11.2 million be added to the Reserve Training appropriation to fund these increased personnel levels.

The CHAIRMAN. Well, Commander Legg, in our experience here, we see where the Government here in Washington—on the floor of the Congress and the administration—claim that we do not have enough volunteerism in America. So, we have, for example, in the education budget around \$370 million to get 25,000 volunteers to volunteer. Then what will we do for those 25,000? We will give them \$5,000 toward their education.

Now, as we are proposing a multimillion dollar program, hundreds of millions of dollars, to try to find 25,000 volunteers, we are cutting out thousands, over 200,000 volunteers, if you consider the military and the Coast Guard itself.

Commander LEGG. Yes, sir.

The CHAIRMAN. I mean we have volunteerism already. I do not know why we do not want to recognize that, because we need it.

Commander LEGG. Yes, sir.

The CHAIRMAN. You definitely need the Coast Guard Reserves. We are continually increasing our demands on the Coast Guard. For example, we have authorized the Coast Guard to go to the Red Sea to police the sanctions policy there with respect to Iraq. And they are doing an outstanding job, and they do it willingly. There is nothing wrong with the Coast Guard. But each year, each day, under Admiral Kime's watch and others, we continue to increase the functions and the responsibilities, and then at the last moment, we cut the funding.

Someway or another, those of us who are in the know ought to try to get the attention of our colleagues regarding the outstanding job being done by the Coast Guard and particularly by the Reserve. I would want to try to increase the Reserve.

Commander LEGG. Well, I think it is one of the best buys that Congress does support.

The CHAIRMAN. It is a wonderful buy. I see it in my own backyard.

Commander LEGG. Yes, sir.

The CHAIRMAN. They are out there volunteering and helping with rescue efforts and everything else of that kind from time to time. And they do it enthusiastically, and at no cost.

Commander LEGG. That is right. There is a lot of history in the Reserve that many people serve for pay in the Selected Reserve, but they also provide a lot of additional time that is in a nonpay status, because they are true volunteers.

The CHAIRMAN. We saw it. Everybody now has Hurricane Andrew fresh in their minds, but we South Carolinians remember Hurricane Hugo very, very well.

Commander LEGG. Yes, sir.

The CHAIRMAN. The Coast Guard had 11 choppers down there taking people off of roofs and abandoned islands first thing. People were in shock. I remember picking up one myself. The Coast Guard was on station early the next morning and in operation, coming all the way to South Carolina from Michigan. The Coast Guard is called upon immediately, and they respond immediately. Yet, we do not respond up here. It is a frustration.

I cannot thank you enough. There will be some questions, if you do not mind, from the other members of the committee.

And we appreciate your appearance here this morning.

Commander LEGG. It is my pleasure.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]





# APPENDIX

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## PREPARED STATEMENT OF SGT. MAJ. MICHAEL F. OUELLETTE

Mr. Chairman: I am retired U.S. Army Sergeant Major Michael F. Ouellette, Deputy Director of Legislative Affairs for the Non Commissioned Officers Association of the United States of America (NCOA). The Association is a congressionally-chartered organization with a membership in excess of 160,000 active duty and veteran noncommissioned and petty officers serving in every component of the five Armed Forces of the United States; Army, Marine Corps, Navy, Air Force, and Coast Guard. NCOA appreciates the opportunity to address this distinguished Subcommittee on behalf of the men and women of the United States Coast Guard.

As in past years, NCOA congratulates the uniformed members of the Coast Guard for their many contributions to the Persian Gulf victory and the successful accomplishment of their many mission responsibilities during 1992 and 1993. The Coast Guard continues to perform above all expectations in their every day battles involving Drug Interdiction, Search and Rescue, Marine Environmental Protection, Law and Treaty Enforcement, ice Operations, Navigational Aids, Marine Safety, and Defense Readiness. It is obvious to NCOA that the Congress has recognized the all-important role of the Coast Guard through their past efforts to increase manpower and funding authorizations. It is hoped that these few words of recognition and support, coupled with this Association's historical advocacy for quality-of-life improvements, will serve as a salute to the U.S. Coast Guard's dedicated commitment to the American people and the Nation.

### PERSONAL SALUTE

NCOA continues to express its appreciation to Admiral J. William Kime, Commandant of the Coast Guard, and Master Chief Petty Officer of the Coast Guard Jay Lloyd for their outstanding efforts on behalf of Coast Guard personnel. The Commandant has continually identified PEOPLE as the first basic theme to his Strategic Agenda. In the same light, NCOA has consistently identified people programs as being of utmost importance to the continued high-level performance and morale of Coast Guard personnel. Even though the "vision" and budget of the new Administration and, of course, the recent actions of both the Senate and House Budget Committees to forsake active duty and military retirees in favor of budget deficit reduction initiatives, NCOA will continue to identify quality-of-life program improvements as being the key to the future effectiveness of the U.S. Coast Guard. It is also evident from the contents of the Fiscal Year 1994 Coast Guard Budget Request that the need to authorize funds for personnel programs is of critical importance to the success of future operations.

### COMMANDANT'S REQUEST

In his FY 1993 Budget Request, the Commandant asked Congress for support of two major personnel objectives: 1) to assist in finding the people to meet recruiting and retention targets, and 2) provide improvements in housing, health care, family services, and the full spectrum of personnel support measures. In his FY 1994 Budget Request, the Commandant has emphasized the need to provide for Cost-of-Living Adjustments (COLA), increased health care funding, work-life initiatives, quality-of-life construction projects, Reserve training, retired pay and survivor benefits compensation. The Commandant is sending a clear signal to Congress that his personnel and related support program authorizations requests are the key ingredients to the Coast Guard's ability to fulfill their difficult mission requirements and meet the necessary recruiting and retention objectives.

## NCOA POSITION

NCOA is in complete agreement with the Commandant's request. This Association has historically appeared before this distinguished Subcommittee to speak for the enlisted men and women of the U.S. Coast Guard; however, the opportunity to appear in opposition to the efforts of the Clinton Administration and the Senate and House Budget Committees holds unprecedented importance. NCOA has advocated improvements in people programs for years. Improvements in housing, medical care, family services, etc., have been identified as having a significant positive impact on recruiting and retention. With the increased number of Coast Guard personnel authorizations and the constant increase in mission requirements, the need has never been greater. Yet in FY 1994 the men and women of the Coast Guard are faced with even more challenges that come in the forms of tax increases, pay and allowance freezes, COLA reductions, inversion of retired pay, reduced survivor benefits, base closure effect on USCG retirees and their families, possible loss of commissary benefits, and increased rent/lease costs that are being sold as "sacrifices" in support of budget deficit reduction. NCOA notes that U.S. Coast Guard personnel would be among the first to sacrifice to the national cause, but not to the extent of assuming what appears to be the sole responsibility in support of the reduction of the national debt.

NCOA fully understands that it need not convince the Subcommittee that the men and women of the Coast Guard perform some of the most arduous duties in the Armed Forces. They continually face daily life-or-death situations with heroism that the majority of Americans simply expect or take for granted. For whatever reason Coast Guard personnel choose to serve their Country in such a capacity, NCOA is quick to point-out that these men and women should expect nothing less than fair and equitable compensation for their efforts and confidence that the Congress will ensure that decisions will be made that are in their best interests and that their families will be protected in their absence. This is the basic responsibility of the Administration and the Congress. Failure to live-up to that responsibility by not limiting the amount of "sacrifice" being levied on military members will most certainly result in a degradation in retention and recruitment capabilities. Simply put, Coast Guard men and women will no longer be able to afford to serve their Country. The sacrifices will be too great.

## CONCERNS AND RECOMMENDATIONS

The following is a list of NCOA supported personnel and quality-of-life issues with a brief description of the Association's concerns and a recommendations for the consideration of the Subcommittee. As the Subcommittee considers these recommendations we urge that you do so in the context that Coast Guard members will sacrifice just like all Americans. They will pay increased taxes and suffer reduced services just like every citizen. They should not be made to sacrifice most just because they serve in the armed forces.

- *Active Duty Pay and Allowance Freeze*: This action equates to sacrifice number two for Coast Guard members especially when their pay comparability is reportedly 11 to 12 percent below that of their civilian counterparts. The simultaneous freeze on allowances is still another sacrifice in that Coast Guard renters will not be compensated for higher rents or lease agreements passed on by landlords attempting to compensate for higher tax outlays. NCOA recommends that Coast Guard personnel be authorized some type of income upgrade during FY 1994, perhaps in the form a reduced pay increase/COLA.

- *COLA Reductions for Coast Guard Retirees*: The FY 1994 Budget Resolution contains a major change to the military retirement system. It imposes a permanent half-COLA in 1994 on all military retirees under age 62, with a \$400 cap without grandfathering all who are currently on active duty or already retired. The enlisted Coast Guard retiree community will be particularly hard hit by this highly discriminatory COLA provision in that the majority of the under age 62 retirees are enlisted personnel. For instance, should a Coast Guard Chief Petty Officer (E7) retire during 1993 at the age of 40 following 22 years of service, he or she will have forfeited \$115,289.43 in retired pay by age 62. This calculation is made based on 100 percent COLA being equal to the assumed inflation rate of 4 percent. That is a sacrifice beyond every expectation. The situation compounds itself because it will degrade the retired pay base amount on which the amount of survivor benefits are paid under The Survivor Benefit Plan (SBP) and it inverts the relationship between active duty and retired pay. NCOA recommends that military retirees, regardless of age, receive full COLA or at a minimum, active duty personnel receive a COLA equal to the under age 62 retiree.

- *Possible Loss of the Commissary Subsidy:* Although no precise action has been taken to reduce or eliminate the Federal Government's commissary subsidy, there appears to be some indication that it is a possibility. Should it happen, Coast Guard members will realize the loss of the number two non-pay benefit enjoyed by servicemembers. Subsidy withdrawal would result in commissary prices being forced upward to the point where no significant savings would be realized by the active or retired Coast Guard member. The non-availability of commissaries to Coast Guard members would be devastating to their quality-of-life and NCOA recommends this Subcommittee fight to preserve this benefit for the members of the U.S. Coast Guard. Loss of the benefit would be yet another sacrifice.

- *Effects of Base Closures on USCG Retirees:* Many Coast Guard retirees made a decision at the time of or subsequent to their retirement to settle in an area of a military installation where health care, exchange, and commissary facilities were available. The large number of recently announced base closures have left Coast Guard retirees and their families without any alternatives. Many of these retirees now report that they are unable to obtain supplemental insurance coverage due to pre-existing medical conditions. NCOA recommends that this Subcommittee support any effort of Congress to ensure that at a minimum a health care delivery alternative is in place at the time a military base is closed.

- *100 Percent CHAMPUS Coverage:* Due to the fact that members of the Coast Guard are involuntarily assigned with their families to remote areas where military treatment facilities are not available, NCOA recommends that 100 percent CHAMPUS coverage be provided with no yearly deductible or cost-sharing requirement.

- *CONUS COLA:* NCOA recommends that CONUS COLA be provided to Coast Guard personnel to offset the increased cost of living expenses associated with being stationed in high-cost tourist areas such as Nantucket Island or Martha's Vineyard Island.

- *Retention on Active Duty of Enlisted Members within 2 Years of eligibility for Retirement:* Although the FY 1993 Defense Authorization Bill (PL 102-484) contained provisions that provided an 18-year "safety net" to enlisted personnel equal to the provisions in law pertaining to officer personnel there is some confusion whether current law protects the enlisted Coast Guard member. NCOA recommends that this Subcommittee insure that the enlisted Coast Guard member is provided equal protection under law as are members of the other military services.

- *Waive Increased Deductibles During Year of Promotion to E-5:* Coast Guard members with families pay reduced CHAMPUS deductibles of \$50 for an individual and \$100 for a family. E-5 and above pay \$150 and \$300 respectively. NCOA recommends that the higher deductible be waived during the fiscal year of promotion to E-5 since it is currently considered to be a penalty for promotion.

#### CONCLUSION

Even though the Cold War is over and it has become obvious to this Association that the current Administration as well as some Members of Congress have lost the enthusiasm for the care and feeding of American Fighting men and women, the U.S. Coast Guard has become a -necessary part of the American way of life. The Coast Guard is critical to life safety and law enforcement in this Country. It is therefore imperative that the quality of the force be maintained through effective recruiting and retention programs. In these times of tax increases, pay and allowance freezes and other loss of benefits, Coast Guard members may simply not be financially able to serve their Country. The loss of benefits being experienced by the retiree community could very well signal the need to look elsewhere to provide for one's future. The members or this subcommittee are cautioned that patriotism is the key to retention; however, the inability to provide for the health and welfare of one's family will very rapidly diminish the enthusiasm for military service. Members of the U.S. Coast Guard must be protected.

Thank you.

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#### PREPARED STATEMENT OF GEORGE J. RYAN, PRESIDENT, LAKE CARRIERS' ASSOCIATION

The owners of U.S.-flag ships on the Great Lakes with the full support of the iron ore industry of Minnesota and Michigan and the steel industry in Illinois, Indiana, Michigan, Ohio, and Pennsylvania urgently request that you reject the U.S. Coast Guard plan to decommission and scrap the most valuable ice-breaking asset in the Great Lakes—the U.S. Coast Guard Cutter MACKINAW.

As you will note in Attachment A, the MACKINAW was essential in our efforts to move over 2.6 million tons of cargo to the nation's steel mills, electric utilities, and other major employers. The MACKINAW opened and maintained the most vital shipping lane in the Great Lakes—the St. Marys River and, thus, assisted 144 ship transits in the past month. This job could not be carried out by the U.S. Coast Guard without the MACKINAW. The remaining ice-breaking assets, five 140-foot tugs while capable vessels, cannot carry out the ice-breaking mission on the Great Lakes.

The retention of the MACKINAW is a jobs issue. Its operation affects the commerce of the United States because it positively impacts the industrial support infrastructure. The U.S. Coast Guard plans to scrap this vessel and offers no plan to carry out the essential Great Lakes ice-breaking mission. In Attachment B we outline our position on why the MACKINAW is needed. The MACKINAW has performed very well in recent years to assist commerce and to protect the environment. The MACKINAW must be retained in operation.

We ask Congress to authorize and appropriate funds for the operation of the ice-breaker MACKINAW in FY94 and in future years. To do otherwise would be to the detriment of Great Lakes shipping, America's steel industry, and iron ore mining industry.

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ATTACHMENT A—LAKE CARRIERS' ASSOCIATION POSITION PAPER—IMPORTANCE OF THE U.S. COAST GUARD CUTTER MACKINAW IN BREAKOUT OF THE FLEET, SPRING 1993

Between March 21 and April 8, 1993, the MACKINAW opened and then maintained the shipping lanes so vessels could transit the Soo Locks 144 times and move 2,625,416 tons of cargo to the nation's steel mills, electric utilities, and major employers. During this period, the MACKINAW provided 66 hours of direct assistance to 13 vessels and 210 hours to facilitate transits of the other vessels—13 of which were in convoy operations. Prior to April 1, 42 vessel transits were made through the Soo Locks and vessels carried just a tad less than 800,000 tons of iron ore.

The U.S. Coast Guard Cutter MACKINAW spent 4 days during the week of March 15, 1993, establishing tracks in the lower St. Marys River prior to operation of the Soo Locks on March 21. This advanced planning and operation paid excellent dividends as the first vessels to transit the St. Marys had minimal difficulties negotiating the turns in the channel. Ice thickness was up to 24 inches in the lower River at Lime Island. While ice of this thickness may not preclude progress by the U.S. Coast Guard 140-foot-long icebreaking tugs, it's a virtual certainty that they could not escort 700'-1000' commercial vessels in these conditions.

Late on the afternoon of March 19, the MACKINAW locked through the Soo Locks upbound to break the necessary track through roughly 40 miles to Whitefish Point in Lake Superior. Ice thickness here also approached 24 inches, with some more significant thicknesses where had occurred. As a result of this thorough track preparation, the first downbound vessel, carrying almost 58,000 net tons of iron ore pellets, was able to make a near routine transit downbound on its voyage to Gary, Indiana.

The track in Lake Superior stayed intact for a little over a week before gale force winds again required MACKINAW's attention in assisting ice-beset vessels, but in the interim, a vessel bound for Marquette, Michigan, became beset over 30 miles from its destination, and MACKINAW was utilized to free the ship so it could continue its transit to Marquette. This assist enabled the freighter to load and deliver 24,000 tons of iron ore for Wheeling-Pittsburgh Steel in Wheeling, West Virginia.

From April 1 to April 8, MACKINAW was engaged in track maintenance in the St. Marys River, both above and below the Locks, until its presence was required in Lower Lake Huron where strong northerly gales had compacted roughly 60 miles of ice into the southernmost 25-30 miles, and vessels were again becoming beset. Through the MACKINAW's capabilities in hundreds of square miles of ice which had compressed and "windrowed," vessel movement to Michigan, Ohio and West Virginia steel plants were again restored.

The MACKINAW and other U.S. Coast Guard vessels are of particular importance in opening lanes and providing direct assistance to tank vessels delivering oil and other liquid products to Michigan and Ontario cities during the winter. While the Locks are closed, double-hulled tankers still deliver petroleum products to local communities. Between January 15 and March 21 when the Locks were closed, 140-foot icebreakers assisted in three tanker transits of the St. Marys River. Prior to April 3, when no further ice-breaking assistance was needed in the Mackinac Straits, the MACKINAW assisted 11 vessels—including 7 tank vessels.

By mid-April ice flowing down the St. Clair River, which connects Lake Huron and Lakes Erie, had jammed in the lower St. Clair, making ferry operations be-

tween the mainland at Algonac and Harsens island, Michigan, come to a standstill. The MACKINAW was sent to see if assistance could be rendered. There was little the icebreaker could do because there was nowhere for the ice to move because it was grounded and jammed by the shallow 6-foot water of northern Lake St. Clair. The passage of the MACKINAW did help break up the ice and keep some of it flowing down the main navigation channel.

The prime alternate U.S. icebreaking resources are the U.S. Coast Guard icebreaking tugs of which there are five stationed on the Great Lakes. While the MACKINAW was deployed in the St. Marys River and Whitefish Bay, vessels which had wintered in Lake Erie left Pennsylvania and Ohio ports on their first journeys north for loads of raw materials. The U.S. Coast Guard icebreaking tugs were heavily relied on to move this traffic, but they began suffering engineering casualties which rendered one tug totally inoperative for further icebreaking after March 25. Another was out of service first with a generator problem then later with a thrust bearing casualty for 8 days out of 10. Consequently, during the most critical period of trying to move vessels in ice at the start of the season, the U.S. Coast Guard had 40 percent of its icebreaking tugs inoperative. *If it had not been for the MACKINAW, the U.S. Coast Guard would not have been able to accomplish its icebreaking mission.*

#### ATTACHMENT B—LAKE CARRIERS' ASSOCIATION POSITION PAPER—CONTINUED OPERATION OF USCG CUTTER MACKINAW ON THE GREAT LAKES

The U.S. Coast Guard icebreaking cutter MACKINAW is so essential to the economic vitality of the industrial mid-West (and therefore the nation) that it must not be decommissioned. Barring an unforeseen collapse in the economy, millions of tons of cargo will have to move on the Lakes before April 1 and after December 15. There are no alternatives to a 10-month Lake navigation season. (See Attachment 1—Iron Ore Shipments on the Great Lakes from U.S. Ports before April 1 and after December 15.)

#### BASIS FOR TESTIMONY

The opinions and conclusions presented in this paper are not based on theories or textbook models. The positions taken reflect experience gained during the movement of more than 26.1 million tons of cargo during the Navigation Season Extension Demonstration Program in the 1970s and nearly 40 million tons of iron ore since the Extended Season navigation period was implemented in 1980.

#### THE ROLES OF THE MACKINAW AND ITS CAPABILITIES VERSUS THE BAY-CLASS TUGS

The MACKINAW does not merely assist commercial navigation by opening channels. Nor does it just provide the Great Lakes states with the equipment needed to prevent flooding in the St. Marys, St. Clair, and Detroit Rivers. The MACKINAW assures the American iron and steel industries and Great Lakes power plants dependent on western coal that the infrastructure to ship and receive cargo in early March and late December/early January exists. Operation of the MACKINAW assures American labor that they will have mining jobs in Minnesota and Michigan, steelmaking jobs in Indiana, Michigan, Ohio, Pennsylvania. \* \* \* The MACKINAW's operation assures the American people that they will have a domestic steel industry capable of providing defense industries with the finished steel for the weapons needed to protect the nation.

The MACKINAW is a unique vessel with icebreaking capabilities that cannot be matched by other U.S. Coast Guard or commercial icebreaking vessels. The MACKINAW is 290 feet long, has a 74.5-foot beam and generates 10,000 shaft horsepower. With a crew of 75, the cutter is able to operate round-the-clock for days on end when necessary.

The MACKINAW's capability for full navigation watches is critical at the close of the shipping season. The cargo that is moving then in the "Head-of-the-Lakes" trade is fighting a deadline—the locks at Sault Ste. Marie, Michigan, close at midnight on January 15 regardless of the needs of commerce. The fleet cannot afford to go to anchor. Vessels must sail 24 hours a day, for the time lost can never be made up.

Without the MACKINAW, the U.S. Coast Guard's Lakes icebreaking force will consist of five icebreaking tugs. These tugs are 140 feet long, have a 37-foot beam, and generate 2,500 shaft horsepower. With a complement of only 18 on board, the crew endurance is limited; thus, the time period of operation of these tugs is limited by crew fatigue. The tugs must stop for periods to allow the crew to rest.

The U.S. Coast Guard proposes to use two Bay-class tugs operating in tandem to open channels for 105-foot beam ore carriers (of which there are 14 on the Lakes;

11 other vessels have beams ranging from 75 to 92 feet). This plan is feasible only in moderate ice; the two tugs cannot match the proven ability of the MACKINAW in 10-, 12-foot-thick brash ice or in breaking through the 12-foot-high windrows of ice that build up in the Straits of Mackinac, Whitefish Bay, and other locations that must be transited.

The ice figures cited in the preceding paragraph are not exaggeration. Heavy brash ice, almost as deep as the channel, is not uncommon in the rivers. The MACKINAW is the only icebreaker on the Lakes with a total displacement sufficient to clear channels clogged almost to the bottom. Experience has shown that the 140-foot tugs are ineffective when brash ice is deeper than 3, 4 feet.

Near channel-filling brash ice occurs in turns and straightaways alike. Some turns (Johnson Point, Winter Point, Stribbling, \* \* \*) are 46, 65 degrees. The Bay-class tugs have shown themselves ineffective in assisting a 1,000-footer around such sharp turns. Some straightaways are just feet wider than the 105-foot beam vessels. The tugs limited displacement is not sufficient to clear the narrow channels.

The MACKINAW is powerful enough to break a 12-foot-high windrow in one pass. The tugs would have to back and fill a number of times. By then, the freighter following will have lost its momentum.

In the event of a steering or engine casualty to a cargo vessel, the MACKINAW is powerful enough to render assistance to the large ore carriers, including towing, in winter-like conditions. The low horsepower tugs could render little assistance to a disabled 1,000-foot vessel.

The Bay-class tugs are needed for navigation and flood control in the geographic areas where they are stationed (Sault Ste. Marie, Detroit, Sturgeon Bay, St. Ignace and Cleveland). Weather conditions in the Lakes region are such that storms and Arctic-like cold fronts quickly envelop the entire region. If the U.S. Coast Guard orders one Bay-class tug to operate in tandem with another, it removes a tug from an area where it soon could be needed.

The Bay-class tugs are very useful for moderate icebreaking. They are an added asset because of their year-round multi-mission capability. However, they cannot be considered capable of replacing the MACKINAW. Three of the Bay-class tugs experienced serious breakdowns during March and April of this year. One has been idled since March 25; two others lost a combined 8 days because of mechanical failures.

#### ICEBREAKING TO ASSIST COMMERCIAL NAVIGATION

It has been argued that the MACKINAW has not logged significant operational time assisting commercial navigation in the 80s and early 90s. This is certainly true when compared with the 70s. However, during that decade, carriers and government were co-partners in a demonstration program to determine the feasibility of year-round navigation on the Upper Lakes, i.e., through the locks at Sault Ste. Marie, Michigan. In contrast, the 80s and 90s saw the industrial mid-west racked by two serious recessions.

It must also be recognized that winters are not uniformly severe when measured by ice formation. During some years of the extended season program, vessels were able to operate with minimal assistance from the MACKINAW, but in many winters, navigation was possible only because the MACKINAW was in service. In some winters, navigation had to be assisted by the polar-class WESTWIND in addition to the MACKINAW.

Starting in 1993, a revival has been evident in the steel industry, and, therefore, Great Lakes shipping. Strong demand for iron ore put the first ore carrier back in service on March 16. By April 1, 35 ships were in service, the strongest start in 3 years.

What was the impact of those early sailings? *The 982,000 tons of iron ore that moved in March represented enough product to make the steel used in 940,000 automobiles.*

#### FLOOD CONTROL

The best examples of the MACKINAW's role in flood control efforts are the ice jams that twice last decade filled the St. Clair River. Northeast winds clogged the River with slush ice 8-feet thick.

In both instances, the MACKINAW was required to lead ice management efforts. The Bay-class tugs proved ineffective for the most part. In fact, the MACKINAW found conditions trying at times. Even with the assistance of the Canadian icebreaker DE GROSSIERE in 1984, the MACKINAW was on scene for 21 days straight.



There was, of course, an impact on commercial navigation. During the 1984 ice jam, more than 90 U.S. and Canadian lakers were idled for periods ranging from hours to several days.

#### SEARCH AND RESCUE

The MACKINAW is the only U.S. Coast Guard vessel on the Lakes with true heavy weather "seakeeping" capabilities. Even when gale force winds generate 20-, 25-foot waves, the MACKINAW can cross Lake Superior or sail from Cheboygan to wherever needed. 20-foot seas would have the tugs' spar awash. The tugs would never even attempt to leave port in such weather conditions. In a severe store, the MACKINAW is the only U.S. Coast Guard vessel capable of S&R missions to assist a vessel with a steering or engine casualty.

#### IMPACT ON IRON ORE INDUSTRY

The North American iron ore industry went through a severe recession in the early- and mid-80s. The number of operating mines fell from 22 to 14. Even those mines that survived had to close for lengthy periods because of weak demand.

In addition to weak demand, the industry faced the threat of overseas suppliers, particularly Brazil, capturing a significant share of the U.S. market. In response, the industry seized every opportunity to increase productivity. Through aggressive cost-cutting, one major producer was able to reduce the operating cost per ton by 33 percent.

Changes in the steel industry, higher scrap prices, and quality advantages afforded by pellets have resulted in the pellet burden increasing to almost 81 percent of the total iron ore consumed in the United States in 1991 (the most recent year for which statistics are available). Of those 70.1 million tons, nearly 50 million tons (70 percent) were carried in U.S.-flag Great Lakes vessels.

The North American iron ore industry is concerned about any event or circumstance that would lead domestic steelmakers to seek overseas sources for pellets. If denied domestic ore, the industry would look to Brazil, Venezuela, and other suppliers.

Since quality pellets cannot be obtained in quantity on the spot market, long-term purchase agreements would evolve. In one instance, this has already happened. In the 1970s, a steel maker was faced with the possible closure of a Minnesota mine because of alleged environmental dangers in the production process. The uncertainty of future ore supplies lead the company to enter into a contractual agreement with a Brazilian mine. Deliveries under that arrangement continue to this day.

A similar scenario can be seen if the MACKINAW is unavailable to keep iron ore moving in December, January, March, and even early April. The lessened demand for domestic ore would have a devastating effect on mining communities in Minnesota and Michigan.

A reliance on foreign pellets would be counterproductive to the recently imposed tariffs on foreign steel. It would be a mockery for the United States to control the amount of foreign steel entering the country, but then encourage imports of iron ore by shortening the Lakes navigation season.

The long-term impact on the domestic steel industry would be negative. Most overseas ore mines produce ore concentrates and fines. Pellets are at a premium. Also, ocean freight rates have increased more than 80 percent since mid-1986. These increased costs for raw materials would reduce domestic producers' ability to compete.

#### ALTERNATIVES TO EARLY- AND LATE-SEASON DELIVERIES

Casual observers have suggested that early- and late-season deliveries can be avoided by carrying more cargo in the summer months. Even if feasible (which it is not), this notion ignores economic realities. Were a person able to accurately predict December ore needs in June, the cost of stockpiling would put a drain on limited capital.

During periods of peak demand, all efficient tonnage is in service. U.S.-flag carriers no longer have a "stand-by" fleet to speak of. There is only one vessel in the stand-by fleet that has enough carrying capacity to be a viable candidate for conversion to a self-unloader and a return to service.

Building additional capacity is not an alternative. Modern ore carriers take 18-24 months to build. And the cost is significant. The 1,000-footers that were christened in 1981 cost \$60-70 million each. It is estimated that a 1,000-footer today would cost as much as \$125 million. A financial investment of this magnitude could be undertaken only in conjunction with a long-term haulage contract and higher freight rates which would negatively impact the steel industry.

## RAILING IRON ORE TO STEEL MILLS

Steel and the Great Lakes region are almost synonymous; more than 70 percent of the nation's steel making capacity is found in the eight Great Lakes states. Most of these mills are located at waterside. All of the newest mills in the United States are at waterside to take advantage of low cost vessel delivery. Stockpiles are located between the water and blast furnaces.

Waterside steel mills were not designed to receive iron ore via rail cars. To do so would require significant additional trackage being laid, realignment of physical facilities, and installation of raw material transfer equipment. The redesigning of mature facilities would be a logistical nightmare. These additional costs would not be the only disadvantage. Congestion would result as enormous numbers of rail cars loaded with iron ore competed for the same rails used to ship out finished steel. (The 60,000 tons of iron ore 1,000-footers deliver each trip would require seven trains each pulling 101 eighty-five ton cars.)

These are not the only drawbacks to railing ore. American railroads do not have the rolling stock to transport iron ore in the quantities that move on the Lakes (67.1 million tons in 1992). To build a fleet capable of moving this tonnage would require a financial investment justifiable only with a long-term, year-round haulage contract.

Most importantly, steel would again see its raw materials costs increase if forced to rely on rail or other sources. One steel maker estimates that the delivered cost per ton could increase severalfold.

## IMPACT ON LABOR

Since iron ore is the primary cargo moving in early- and late-season sailings, the 8,600 miners in Minnesota and Michigan stand to lose the most if product can't move. If steelmakers believe that the loss of early- and late-season sailings will create a shortfall in ore requirements, they will seek the ore elsewhere and reduce production schedules at U.S. mines. Temporary closures, and the resulting loss of wages, would follow.

For example, if the navigation season were reduced by 10 percent, we could assume that pellet production would fall at the same rate. This would cause force reductions in pellet plants and a potential loss of 500 to 600 jobs. Total direct wages lost would be in the \$12-15 million range. This direct wage loss does not include the indirect job loss in the service sector estimated to be three or more jobs per employed miner.

The steel industry is increasing turning to "fluxed" pellets, i.e., pellets that contain limestone. It is probable that the many stone quarries in the Lakes region would have to shorten their production periods, again with a resulting loss of wages.

The steel mills that depend on this ore and limestone employ approximately 125,000 people. Some of these jobs become at risk, either from raw materials shortages or reduced competitiveness from higher transportation costs. The domino effect would soon spread to autoworkers, the building trades

Another obvious loss of wages would include Great Lakes sailors. On average, vessels carry a crew of 28. In 1993, 36 vessels representing 1,008 jobs were in operation by April 1.

## U.S. COAST GUARD'S PROPOSED EMERGENCY MEASURES ARE NOT VIABLE

The U.S. Coast Guard does not question the need for icebreaking on the Great Lakes, just the need for the MACKINAW. When questioned by members of the House Subcommittee on Coast Guard and Navigation in April, Admiral Kime, Commandant of the U.S. Coast Guard, expressed the belief that in extremely harsh ice conditions, the U.S. Coast Guard could either call on Canadian icebreakers or assign a USCG icebreaker from the East Coast. Neither option is viable. Large Canadian icebreakers' primary mission is to patrol the St. Lawrence River, so they often would be unavailable to assist navigation in the Upper St. Marys River. (See Attachment C.) The idea of bringing East Coast icebreakers to the Lakes ignores the fact that the St. Lawrence Seaway is closed during the periods of greatest need (see Attachment D).

## U.S. COAST GUARD HAS OVERESTIMATED COST OF OPERATING THE MACKINAW

In testimony before the House Subcommittee on Coast Guard and Navigation, Admiral J. William Kime stated the cost of icebreaking with the MACKINAW was 220,000 a day. This is correct only if one considers icebreaking the MACKINAW's only mission. When its activities in Aids to Navigation, OCS and Reserve Training,



and Recreational Boating Safety are added to the equation, the MACKINAW's icebreaking cost-per-day ranges from \$86,000 to \$135,000. (See Attachment E.)

#### SUMMATION

Despite massive restructuring in the 1980s, the iron and steel industry remains a key player in the nation's economic well-being and defense capabilities. Steel mills in the Great Lakes basin account for approximately 125,000 jobs. The iron ore mines of Minnesota and Michigan employ 8,600 men and women. To compete in this global economy, these industries rely on the efficiency of Great Lakes shipping to deliver their raw materials. Any shortening of the Lakes shipping season will increase the requirements for stockpiling raw materials, an unnecessary and unbearable cost.

The U.S. Army Corps of Engineers has recently proposed a fixed navigation season of March 21 - January 15 through the locks at Sault Ste. Marie, Michigan, to permit maximum utilization of the system. This 10-month navigation season will be jeopardized if the MACKINAW is decommissioned. The MACKINAW is the only icebreaker stationed on the Great Lakes that can accomplish its mission no matter what the ice conditions. The other U.S. Coast Guard forces on the Lakes do not have the horsepower, beam or operational stamina to take the MACKINAW's place. Industries dependent on Great Lakes shipping can be assured of a free flow of cargo before April 1 and after December 15 only if the MACKINAW is in service. **THE MACKINAW MUST NOT BE DECOMMISSIONED.**

#### ATTACHMENT B—ATTACHMENT 1—LAKE CARRIERS' ASSOCIATION, CONTINUED OPERATION OF U.S. COAST GUARD CUTTER MACKINAW ON THE GREAT LAKES

##### Iron Ore Shipments on the Great Lakes From U.S. Ports Before April 1 and After December 15—1980-93

Year	Pre-April 1	Post December 15	Total
1980 .....	308,771	3,101,852	3,410,623
1981 .....	121,822	519,362	641,184
1982 <sup>1</sup> .....	.....	419,731	419,731
1983 .....	12,191	1,843,358	1,855,549
1984 .....	515,175	595,080	1,110,255
1985 .....	92,279	1,260,646	1,352,925
1986 .....	200,394	1,585,289	1,785,683
1987 .....	689,083	4,280,104	4,969,187
1988 .....	376,464	4,984,965	5,361,429
1989 <sup>2</sup> .....	1,077,567	2,557,736	3,635,303
1990 .....	1,220,345	4,309,204	5,529,549
1991 .....	824,215	3,785,328	4,609,543
1992 .....	1,331,243	2,968,115	4,299,358
1993 .....	982,240	.....	.....
Totals .....	7,751,789	32,210,770	39,962,559

<sup>1</sup> Worst year for Great Lakes shipping since Great Depression.

<sup>2</sup> U.S. Army Corps of Engineers forced to close Soo Locks on December 28 by environmental criteria since determined invalid.

#### ATTACHMENT C—LAKE CARRIERS' ASSOCIATION—ISSUE: CANADIAN ICE-BREAKING RESOURCES ARE NOT AVAILABLE ON THE GREAT LAKES TO MAKE UP FOR THE LOSS OF THE MACKINAW

During House testimony recently on the U.S. Coast Guard's 1995 budget, the U.S. Coast Guard took the position that if the Cutter MACKINAW was decommissioned, the need for its services could be met, in part, by deployment of Canadian Great Lakes icebreakers. The following table will help place the respective capabilities in order:

	Length	Beam	Horsepower
U.S. Coast Guard Cutter MACKINAW .....	290 feet	75 feet	10,000
Canadian icebreaker GRIFFON .....	234 feet	49 feet	4,000
Canadian Icebreaker SAMUEL RISLEY .....	229 feet	45 feet	8,400

The GRIFFON has aids to navigation responsibilities in Lake Erie, Lake Huron, and Georgian Bay and, in the event of any early December freeze-up, its primary mission is to withdraw buoys before they are lost, damaged, or moved by the ice. Consequently, GRIFFON may or may not be available for ice-breaking duty. During the winter, it is usually in lower Lake Huron. Thus, it is normally available to provide ice-breaking assistance both in early winter and in the spring break-out. However, as spring advances into the first week of April, GRIFFON is deployed to Georgian Bay for breakout of the various Canadian ports rendering it unavailable for prompt assistance in lower Lake Huron or the Detroit/St. Clair Rivers.

The SAMUEL RISLEY has aids to navigation responsibilities in the more northern Lake Superior. It is primarily utilized to ensure late season transits at Thunder Bay, Ontario, by vessels hauling late season grain cargoes. When navigation ceases, it, too, deploys to a lower Lake Huron port for the winter. Thus, it is available in Lake Huron and the Detroit/St. Clair Rivers during January, February, and early March. However, as soon as the Soo Locks open in late March, the SAMUEL RISLEY returns to Thunder Bay to break-out the harbor and facilitate early season transit there. It is fully occupied in the late March or early April time frame and is not available to assist U.S. vessels in the St. Marys River or elsewhere.

No other Canadian ice-breaking resources winter west of the Welland Canal. From roughly December 28 until roughly March 28, those resources are incapable of assisting anywhere west of Lake Ontario. At spring break-out, the Canadians provide prime attention to ice-breaking in the St. Lawrence. Once, in 1984, one of the polar breakers deployed to the Detroit/St. Clair Rivers for a severe ice jam which lasted almost three weeks, but deployment of outside Canadian breakers to the Lakes is, indeed, a rarity.

#### CONCLUSION

The opportunity to receive ice-breaking resource help from Canada is very limited. The Great Lakes resources are of less horsepower and break a significantly narrower track which usually consumes more time in moving commercial vessels again. The U.S. Coast Guard cannot count on Canadian icebreakers to fill in for the MACKINAW.

#### ATTACHMENT D—LAKE CARRIERS' ASSOCIATION—ISSUE: CAN GREAT LAKES ICE-BREAKING RESOURCES BE AUGMENTED AT CRITICAL TIMES USING EAST COAST RESOURCES

During Congressional Hearings on the U.S. Coast Guard Budget the week of April 19, 1993, discussion on the need for the U.S. Coast Guard Cutter MACKINAW took place. The U.S. Coast Guard is proposing its decommissioning after its utilization for the commencing of the navigation season in the spring of 1994.

The U.S. Coast Guard was asked how it would replace the essential services the MACKINAW had been providing at the opening and close of navigation and during the winter. The U.S. Coast Guard respondent stated that possibly an East Coast resource could come to the Lakes for the most critical periods.

The only ice-breaking resources the U.S. Coast Guard has on the East Coast are the 140-foot WTGB Icebreaking Tugs and 180-foot WLB Buoy Tenders. For either to deploy to the Great Lakes, the vessel and crew would have to stay for the entire winter to be of any measurable assistance during the critical times of March 21 - April 5 and December 20 - January 15, annually. Access to the Great Lakes would have to be through the St. Lawrence Seaway and Welland Canal, which close for the winter within a day or two of Christmas and do not re-open until the last five days of March. As soon as the St. Lawrence closes, ice booms are placed across the channels at critical areas by the power companies to stabilize the ice cover and prevent ingestion of ice at water intakes. The seven locks in the St. Lawrence are de-watered for winter maintenance once traffic ceases. The Welland Canal's eight locks, which connect Lakes Ontario and Erie, are also de-watered for winter maintenance. Unless a vessel exits before these waterways close, the vessel is trapped for the winter. An augmenting icebreaker from the East Coast which exited prior to Christmas would have provided very little assistance, for that is exactly the time the freeze-up begins in earnest.

The accompanying Table I shows closure and opening dates, late season cargo tonnages, and the areas where significant ice requiring icebreaker assistance appear first and last the longest.

Opportunities for augmentation in the spring from the coast are equally remote. The distance from Montreal to the Lake Erie end of the Welland Canal is 369 miles, and under the most ideal conditions in late-March, you are looking at a minimum 2-day transit. The 575 miles from the Welland Canal to Sault St. Marie, Michigan,

are easily worth another 2 days with the speed limits encountered in the Detroit area. Consequently, adding this 4-day transit time to the earliest recent opening date of March 26 in recent years for the Seaway produces a Soo arrival date of March 29 under optimum conditions. Starting from a more probable Seaway opening date of March 28-30, an augmenting icebreaker could not arrive where it is needed to begin operations until April 1, annually. Since traffic will likely have been moving for 10 days, an April 1 arrival misses the most critical time in the most critical area.

Consequently, an East Coast augmenting icebreaker is not feasible because:

- a) It would have to stay on the Great Lakes for the entire winter.
- b) An icebreaker deployed for end of season assistance only, would have to leave by the time the going got tough to arrive at Montreal by Christmas before the Seaway closed.
- c) An icebreaker deployed solely for spring breakout could not arrive in the critical area until approximately April 1 which is about 14 days after it is needed to commence breaking tracks in advance of the start of commerce.

ATTACHMENT D—TABLE I

## Early/Late Season Waterway Data

	1988	1989	1990	1991	1992
Montreal-Lake Ontario Section:					
Open .....	03/29	03/30	03/28	03/26	03/30
Close .....	12/23	12/23	12/26	12/24	12/23
Welland Canal:					
Open .....	03/30	03/31	03/28	03/26	03/30
Close .....	12/24	12/31	12/24	12/24	12/24
Soo Locks:					
Open .....	03/22	03/15	03/21	03/21	03/22
Close .....	01/15	12/28	01/15	01/10	01/11

## Late Season Iron Ore Shipments, December 16—End of Season

[Gross tons]

Year	Cargoes	Tonnage
1988 .....	164	4,575,589
1989 .....	90	2,536,046
1990 .....	136	4,199,991
1991 .....	103	3,512,498
1992 .....	98	3,149,003

**Late season freeze-up**—December 10–25, Western Lake Erie, Saginaw Bay, Green Bay/Escanaba, and Duluth/Superior. December 25–January 5, Mackinac Straits, and St. Marys River.

**Early season ice areas**—Mackinac Straits, St. Marys River, Whitefish Bay, and Green Bay/Escanaba.

## ATTACHMENT E—LAKE CARRIERS' ASSOCIATION—ISSUE: OPERATING COST OF MACKINAW MUST BE SPREAD OVER SEVERAL MISSIONS, NOT EXCLUSIVELY DOMESTIC ICE-BREAKING

In recent House testimony on the U.S. Coast Guard's 1995 budget, the U.S. Coast Guard Commandant, Admiral J. William Kime reasoned that with annual costs of \$4.2 million and 21 days of ice-breaking performed, the Cutter MACKINAW's costs equated to \$220,000 per day of ice-breaking.

This reasoning neglected the fact that the MACKINAW has been employed in other mission areas as shown in the following table (e.g., Recreational Boating Safety, Officer Candidate and Reserve Training, and Aids to Navigation).

	1990	1991	1992
Domestic Ice-breaking .....	451	588	943
Recreational Boating Safety .....	13	65	103
OCS and Reserve Training .....	274	471	123

	1990	1991	1992
Aids to Navigation .....	8	29	.....
Total Major Mission Hours .....	746	1,153	1,169
\$4.2 Million divided by Major Mission Hours .....	\$5,630/hour	\$3,643/hour	\$3,593/hour
or .....	\$135,120/day	\$87,432/day	\$86,232/day

Consequently, when costs are spread over the vessel's major missions, costs in the last three years (if \$4.2 million is a reasonable average) have ranged between \$86,000 and \$135,000 per day.

Even this latter approach fails to account for the 80 days a year the MACKINAW provides as a standby resource for Search and Rescue, Ice-breaking, or Pollution Prevention. Though seldom utilized for Search and Rescue (SAR), the MACKINAW is without question the most capable SAR resource on the Great Lakes. Its seakeeping characteristics in a severe April or November storm far surpass any other resource on the Great Lakes. At 290 feet, it can deploy in 10 to 20-foot seas should it be needed while the smaller cutters would make negligible progress toward a destination to perform a SAR mission.

Moreover, the MACKINAW is the only vessel with sufficient horsepower to refloat stranded lakers or even U.S. Coast Guard cutters by towing them off the rocks in concert with other assistance. This capability can be the last resort to prevent a vessel in trouble from going aground and possibly spilling cargo oil.

#### CONCLUSION

It is inappropriate to assign MACKINAW operating costs per day based solely on the ice-breaking mission. Like all U.S. Coast Guard vessels, it performs other missions and serves many days a year in a standby status ready to respond to any need. Even its maintenance time of roughly 123 days per year should be apportioned against all the missions it performs or might perform.

#### PREPARED STATEMENT OF MICHAEL A. FRYER, EXECUTIVE DIRECTOR, NATIONAL BAREBOAT CHARTER ASSOCIATION

Safety on the water is of importance to us all. Safety is a two-fold issue. The equipment is one concern and the other is the use and handling of the boats - the concern about the operator education and training.

This Bill purports to increase passenger safety, but WILL NOT DO SO. S. 1052 deals with the equipment, but does not address the key issue—boater education and training. This Bill WILL put 40,000 people out of work, destroy a \$1 Billion annual industry, and severely restrict the use of private vessels. It will have a devastating affect on the Industry, the employees and the families who have put years of time and money into developing their small businesses. And, millions of private boat owners will either not use or sell their boats.

This Bill would "Overregulate" the private boat owners who rent their vessels to others for their private, non-commercial use. And, it would Restrict the private pleasure use of a vessel. It is an infringement upon the personal rights of people to restrict them from having a business relationship with anyone aboard their boat.

Rental Cars, Rental Trucks, and Recreational Vehicles do not have to meet the same use and construction requirements as their commercial counterparts. Anyone can rent a 40-foot RV Motorhome from a private individual or RV Rental Center in any city and entertain his/her guests. They can drive it themselves, have it driven by someone (licensed or not), and there are no restrictions as to how many people can be in the vehicle. A 40-foot could handle 26 passengers and the same size 26 Passenger Commercial Vehicle MUST meet more stringent construction standards and licensing. Related industries are not discriminated against as S. 1052 would do to the boating industry. And, it is a known fact that boats are safer than automobiles.

Furthermore, a foreign manufactured aircraft can be certified to carry commercial passengers in the United States, while Foreign built vessels cannot be "certified" to carry passengers for hire.

There is massive inconsistency and discrimination already existing in the United States, all brought about by Special Interest Groups. LET'S NOT ADD MORE. In the House Merchant Marine Committee Hearings, the Executive Director of the Passenger Vessel Association, Mr. Eric Scharf, on March 3, 1993 testified, "\* \* \* bareboat charters operate in many ports throughout the United States at an unfair

competitive advantage \* \* \* the difference in the regulatory burden borne by the inspected versus the uninspected fleet—and the accompanying difference in operating costs—is enormous.” He further said, “\* \* \* we intend to continue to work with the Coast Guard to insure swift and strike enforcement of its regulations affecting these operations \* \* \* and we intend to pursue with the Congress or the Coast Guard appropriate legislation or regulation that will reduce the incidence of ‘bareboat’ charters altogether.”

This attempt is another example of such a group wanting you to discriminate against the public for their own personal gain. AND, the Coast Guard supports this in the name of “Safety”. They are interested in increasing their responsibilities, preserving Coast Guard jobs, and increasing their budget at the expense of the public who have a proven safety record and the small entrepreneurs who rent their private vessels to others. If the Coast Guard believes there is a safety problem, let them produce facts and statistics, not conjecture.

**LET US NOT BE LED DOWN THIS PATH OF DISCRIMINATION UNDER THE CLAIM OF “SAFETY” WHEN NO SUCH SAFETY HAZARD HAS BEEN PROVEN.**

When you and I contract for a rental car, truck, or RV, the company does not tell us who can ride in the vehicle or what type of furniture we can carry in the truck. The private boat owners across the nation would be restricted to 6 or 12 people (depending on tonnage) even when they use the vessel personally, if the people aboard were all business associates of the owner. This Bill would affect private pleasure boats with the proposed definition of “consideration”.

Chartered boats would be restricted to 6 or 12 people just because they are rented and not owned. But, in fact, under a Bareboat Contract the vessel is transferred to the charterer and remains a private vessel. That is true Thor a 20-foot boat or a 200-foot tanker that is Bareboat. Chartered. This legislation could have rippling effects on the entire shipping industry and existing practices.

On top of all this inconsistency, the House Bill HR1159 exempts the Movie Industry, Charitable Events, Boat Parades and Special Events like the America’s Cup, Whitbread Races, and the Gasparilla Parade. How on earth can you say that a boat is unsafe for 7 or 13 people or more (beyond the 6 and 12 threshold) in a simple situation like a wedding or birthday party on the Intracoastal Waterway for a boat that is leased and turn around and say it is OK for the same boat in the same location if it is personally owned and used and further exempt organizations and situations. **IF IT IS UNSAFE, THEN IT IS UNSAFE FOR ONE AND ALL!!** Not some of the people, some of the time when it is financially or politically beneficial to a special interest group. **TIME AND TIME AGAIN, I SAY THIS IS NOT A PROVEN SAFETY PROBLEM, IT IS SPECIAL INTEREST FAVORITISM.**

This Bill would also require boat owners to spend tens of thousands of dollars converting their private vessels to “Certified Passenger Vessels”, supposedly to improve safety of the boat. BUT, proponents of the bill have not produced any evidence indicating there is a safety problem existing in the Industry. The NTSB, Coast Guard, and other recording organizations did not submit any records indicating Bareboat Charters were a safety problem. The Coast Guard only “Thought” that Bareboat Charters “Could” be a problem in the future.

We cannot legislate thousands of people out of work and cause widespread bankruptcy because someone “thinks” there could be a problem, one which was created by a special interest group. In contradiction, the Coast Guard indicated the “Certified Passenger Vessels” have had 18 deaths in the past two years. Reports from Lloyds of London Insurance representatives indicate there are NO significant claim differences between the two types of vessels and that the insurance companies require a yearly certified marine survey of the Bareboat vessels. The representatives indicate there are complete fleets of “Passenger Vessels” they will not insure due to the condition of the vessels. There is NO measurable safety problem that warrants HR 1159 or S. 1052 and passing this Bill will economically favor one segment (the Passenger (ticket selling) Vessels), and at the same time bankrupt the Bareboat Charter boat owner.

We know more boater education and safety in handling a boat is necessary, but HR 1159 and S. 1052 are NOT the answer to that problem. These Bills would have the Personal Private Vessels used for non-commercial Bareboat Charters meet the same commercial vessel construction standards as “Certified Passenger Vessels”. Keep in mind that “Certified” vessels are only inspected by the Coast Guard one day a year. The other 364 days they are monitored by the vessel operator. All vessels are presently required to meet basic safety standards.

The Coast Guard cannot possibly regulate every type vessel, every type activity, and every personal relationship that occurs on a watercraft, when in fact, there needs to be the continuance of privacy in pleasure boating. The boats aren’t the problem, the safety problem is with the operators.

Within present law, there are safety standards for Private Pleasure Vessels and there is NO safety problem to indicate a need for more regulations to discriminate against Recreational Vessels. Bareboat Chartering has been around for over 100 years and is a private matter between the owner of the vessel and the charterer who rents the vessel from the owner and who assumes the same rights and responsibilities as the owner. Charterers provide equal or better insurance, manning, and concerns for safety than some "Certified Passenger Vessel" owners.

**PASSAGE OF HR 1159 AND S. 1052 WOULD:**

- Put an estimated 40,000 Bareboat Vessel owners, crews, employees, captains, and service company personnel out of work.
- Shrink the earnings of charter brokers, caterers, insurance agencies, marinas, musicians, florists, photographers and many more suppliers to the Industry.
- Glut the market with boats for sale, thereby deflating an already depressed market.
- Cause many Private Vessel Owners who offer their boats for Bareboat Charter to default on loans due to reduced income and the inability to spend the tens of thousands of dollars necessary to convert their vessels to "Certified Passenger Vessels".
- Infringe upon the rights of Private Vessel Owners, discriminate against them, and favor the Special interest Group, the Passenger Vessel Association.
- And, this results in fewer taxes flowing to the local, state and the federal government.
- And, this means a cost to the government in unemployment of the thousands of people and businesses affected.
- And, all this means a massive irate Public that already believes government "Overregulates".

**THIS "OVERREGULATION" WILL PUT GOVERNMENT INTO A VERY PRECARIOUS POSITION \* \* \***

1. It favors one Industry over another and violates the freeenterprise system. This Bill is ANTI-BUSINESS and ANTI-COMPETITION.

2. It involves government in legal private affairs. Remember, a Private Vessel Owner is renting his own property to another, who assumes the rights and responsibilities of the original owner. He, nor the Charterer is conducting a business on the water as is done on a "Certified Passenger Vessel" selling tickets.

3. It reduces government income.

4. It increases government expense.

On behalf of the private vessel owners who rent their PRIVATE vessels to others for their PRIVATE, NON-COMMERCIAL use, I strongly urge the Committee to take the following action:

1) Remove Title VI—Passenger Vessel Safety from S. 1052 and return that portion of the Bill to the Coast Guard for further study.

2) Require the Coast Guard to bring back recommendations for increased boater education and training.

3) Require the Coast Guard to work with the National Bareboat Charter Association to develop a definition of "Bareboat Charters" and return to the Senate Commerce Committee a proposal that will protect the safety of the public while preserving the right to charter a private vessel to another person (for their non-commercial use) without the certification requirements of a "Passenger Vessel".

*Note:* Enclosed are our recommendations as a starting point for such discussions. These items will enhance the safety and education of the charterer, the vessel, and his/her guests, while continuing to offer a pleasureable boating experience. We request they be included in the record to serve as a starting point to improve and preserve an industry.

This concludes our statement regarding S. 1052. We are amenable to work with the Coast Guard to develop an environment where all interests can be satisfied. We urge the Senate Commerce Committee to direct the Coast Guard to consider the interests of all segments of the public and not those of the Special Interest Group, The Passenger Vessel Association.

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**DEFINITION OF "RECREATIONAL VESSEL BAREBOAT CHARTERS" ABOARD UNINSPECTED OR PRIVATE PLEASURE RECREATIONAL VESSELS**

**1. CHARTERER'S UNDERSTANDING AND ACCEPTANCE OF CONTRACT TERMS AND RESPONSIBILITIES:**

A. Understand and accept the command, control, and ownership of the vessel and Owner relinquishes same.

B. Accept responsibility for the equipment, crew and guests aboard and inspect the equipment prior to departure.

C. Accept responsibility for damage or injury to other vessels, structures and people.

D. Understand, accept, and carry out the conditions required for a legitimate Bareboat Charter, as stated in CFR 46, Section 2101.

## 2. CONTRACTS:

A. Must be signed by Charterer, who acknowledges full understanding of his/her rights and responsibilities.

B. May not be signed by an agent, broker or third party, and must be written, not verbal.

C. Should be a contract of the content and type recommended by the National Bareboat Charter Association, (NBCA), which has been made available for USCG review and which has obtained general USCG and NBCA consensus.

## 3. ON BOARD PRESENTATION TO GUESTS AS TO CHARTERER'S LIABILITY AND RESPONSIBILITIES:

A. A verbal presentation must be given to guests on board prior to departure, giving them the opportunity of choice for the voyage.

B. The presentation should be of the type and content prepared by the National Bareboat Charter Association.

C. The presentation must include:

(1) Identification of the Charterer

(2) Description of the responsibilities of the Charterer with regard to command, control and ownership.

(3) Announcement of the insurance in force for the voyage (both owner and charterer coverage).

(4) Location of the PFD's, fire extinguishers, and other life saving and emergency equipment.

(5) Description of fire fighting and other emergency procedures.

(6) Intended route for the voyage.

## 4. INSURANCE REQUIREMENTS:

A. Vessel Owner must provide proof of coverage for property damage, personal injury, medical, Owner's liability, and Longshoreman and Harbor Worker's endorsement, or

B. Charterer must provide same through his/her own source.

C. Vessel Owner insurance must have endorsement for Charterer for the above requirements, if Charterer is to automatically be covered for the same perils as the Owner.

D. Charterer must provide proof of liability coverage for him/herself for the voyage, if not included in owners policy for Charterer.

E. Owner's certificate of insurance must indicate permission to charter.

F. Owner and Charterer's certificate of insurance must be posted on the vessel in a visible location to all guests.

## 5. SAFETY EQUIPMENT:

1. Firefighting—Systems, Auto CO<sub>2</sub>,

2. Early warning Alarms—High Water, Smoke, Vapor, Fire

3. Lifesaving and First Aid—PFD's, Medical Kit, etc.

4. Communications—Flares, Radios, Electronic

5. Electronics—Position finding, Radar, Depthfinder (vessels more than 3 miles offshore)

6. Water Extraction—Bilge pumps, High Volume Aux. pump.

## 6. CONSIDERATION:

A. A legitimate Bareboat Charter cannot carry any "passengers for Hire", who are defined as having contributed consideration for carriage.

B. Consideration is defined as monetary payment for carriage of any individual, either directly or indirectly.

C. Consideration is not defined as anything other than actual monetary payment for carriage or the voluntary nominal sharing of expenses of the voyage.

D. Voluntary nominal contributions to the voyage for services other than "operational" are acceptable.

## 7. CHARTERER'S SELECTION OF CREW, PROVISIONS, AND YACHT SERVICING:

A. Charterer must select the master and/or crew, if Charterer does not operate the vessel.

B. Owner's master and crew may be hired by Charterer, providing they do not have any ownership in the vessel.



C. Charterer may relegate the selection of the master, crew, provisioning and providing of services to a Service Company, but doing so does not diminish Charterer's responsibilities for the vessel, master, crew, guests and any accident or injury.

#### 8. QUALIFICATIONS OF MANNING PERSONNEL:

A. Charterer, who is not a USCG licensed captain, may operate a Bareboat Vessel in the following circumstances:

- (1) Less than 100 gross tons and carrying 6 or less guests, including crew.
- (2) More than 100 gross tons and carrying 12 or less guests, including crew.

B. A USCG licensed captain is required in the following circumstances:

- (1) Less than 100 gross tons and carrying more than 6 guests, including crew.
- (2) More than 100 gross tons and carrying more than 12 guests, including crew.

#### 9. ACCIDENT AND INJURY REPORTING:

A. All Bareboat Chartered vessels involved in a marine casualty shall comply with CFR 46, Subpart 185.15-1. (Notice of Marine Casualty).

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LETTER FROM ERIC G. SCHARF, EXECUTIVE DIRECTOR, THE PASSENGER VESSEL ASSOCIATION

JUNE 1, 1993.

The Honorable ERNEST F. HOLLINGS,  
U.S. Senate,  
Washington, DC 20510

DEAR MR. CHAIRMAN: On behalf of the Passenger Vessel Association, I write with pleasure and some urgency in support of the Passenger Vessel Safety Act of 1993. This legislation, which we understand may be included as part of the U.S. Coast Guard budget authorization for FY 1994, is of extreme importance to the member companies of our Association, and we urge your Committee to approve it as soon as possible.

We respectfully request that this letter be made part of the hearing record on the Coast Guard budget authorization, and include the attached copy of a letter by Capt. Jerry Gertz of Ft. Lauderdale, Florida.

The Passenger Vessel Association, formerly known as the National Association of Passenger Vessel Owners (NAPVO), represents more than 500 companies that own, operate and supply U.S. flag, Coast Guard and/or locally certified passenger vessels. These include dinner cruise ships, tour and excursion boats, car and passenger ferries, private charter boats, casino gaming vessels, overnight cruise boats and environmental boats. Our members operate more than 2,000 vessels ranging in size from 7 to 4,000 passengers, and together employ several thousand people across the country.

For years our vessel operating members, the vast majority of whom own U.S. Coast Guard certified vessels which are operated in full compliance with Coast Guard safety standards, have watched in frustration as owners of recreational vessels increasing have entered the passenger-for-hire business through the use of sham bareboat charters. It is with considerable satisfaction, therefore, that we have been able to support Coast Guard efforts to combat this public safety threat through the Introduction of the Passenger Vessel Safety Act of 1993.

This bill, as it finally emerged from the House Committee on Merchant Marine and Fisheries, is the product of more than four years of work. It is the result of two public hearings before the House Subcommittee on the Coast Guard, and countless meetings between the Coast Guard and affected parties within the broad maritime community. Indeed, for the record, our Association would like to commend the Coast Guard for its diligent efforts in reaching out to the maritime community, learning its concerns, and addressing them in a fashion that promotes the public safety while minimizing government intrusion where it clearly is not warranted.

The Increasing use of sham bareboat charters for the illegal operation of non-certified vessels poses a serious safety hazard to the general public given that these vessels are neither built to the high safety standards expected of vessels-for-hire, or operated in compliance with Coast Guard safety requirements. It also exposes the usually unsuspecting charterer to potentially huge legal and financial liabilities in the event of an accident or violation of law or regulation during a cruise.

In addition, the influx of these vessels into the passenger-for-hire business threatens the viable operation of legal passenger vessels in ports throughout the country. This is because non-certified vessels do not meet government safety and other standards for carrying passengers-for-hire and their owners are not willing to make the financial investment necessary to comply with these standards.

The difference in the regulatory burden borne by the inspected versus the uninspected fleet—and the accompanying difference in operating costs—is substan-



tial. Uninspected vessels need not comply with the extensive safety equipment standards required by Coast Guard regulations, do not meet manning or training guidance for crews, do not have to routinely demonstrate compliance with drug testing, will avoid the financial millstone of inspection user fees, and do not bear the responsibility or cost of Coast Guard-imposed maintenance and repair, or interruption of operations for inspection. As a consequence, such vessels offered for bareboat charter are able to compete in the private charter market at a far lower cost than vessels which fully comply with such regulations.

Despite these well-recognized concerns, these vessels continue to operate because under current law, the multiple definitions of "passenger" and "passenger vessel", and the oblique nature of the bareboat charter contract, have stymied Coast Guard efforts to effectively enforce the passenger vessel safety laws. This is what the Passenger Vessel Safety Act of 1993 aims to correct.

While our Association believes that swift enactment of this legislation is a critical first step to controlling sham bareboat charters, we recognize there are other things to be done. We are prepared to do our part.

First, we intend to continue to work with the Coast Guard to increase enforcement of its regulations affecting these operations. As part of this effort, our members are encouraged to report suspected illegal passenger vessel operations to their local Coast Guard Marine Safety Office. With enactment of this legislation, the Coast Guard will have the tools it says it needs in order to strictly enforce the law. We believe and expect that vigorous enforcement actions will proceed, and we are prepared to assist wherever we can.

As part of this commitment, we urge Congress to provide the Coast Guard adequate resources to do the job. In the past, the resources available to the Coast Guard to investigate bareboat charters have not been sufficient. With a clear law and the proper resources, we believe the Coast Guard can better train its investigators in the conduct of effective boardings and in the enforcement of its charter regulations.

Second, we are working to educate the consumer of private charter vessels to the serious personal risks they are assuming with bareboat charters. Our Association has prepared and widely-circulated materials that explain the importance of using Coast Guard certified vessels for charter to the purchasers of charter vessel services—primarily meeting planners and group tour operators. We continue to work with publications that address the hospitality industry to place information about the risks of using uninspected vessels.

The underpinning to the success of all these efforts, however, is enactment of the Passenger Vessel Safety Act of 1993. Indeed, if Congress fails to pass this legislation it will send an ominous message to the passenger vessel industry that Congress does not support the need for strict, enforceable passenger vessel safety laws, and the consequences could be serious. As Capt. Jerry Gertz said in his letter to the editor of the Ft. Lauderdale Sun Sentinel, "If the guy next door operates a rust bucket at a fraction of the cost, eventually those of us who spend money to keep our vessel up to specification are going to fold up the tent."

Thank you for the opportunity to share our views and our support for the Passenger Vessel Safety Act of 1993. We urge its adoption as soon as possible.

Sincerely,

ERIC G. SCHARF,  
*Executive Director.*

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[Sun-Sentinel, Saturday, May 15, 1993]

#### MORE TO THE EDITOR—PUBLIC SHOULD SUPPORT BOAT SAFETY BILL

As the owner/operator of two Coast Guard inspected commercial passenger vessels here in Fort Lauderdale, we take strong exception to the article that appeared in the May 6 edition of the Sun-Sentinel criticizing legislation being considered by Congress to control sham bareboat charters.

While there are many operators of unsafe, illegal passenger vessels in Fort Lauderdale (a fact that ought to concern the Greater Fort Lauderdale Chamber of Commerce and the Fort Lauderdale Convention and Visitors Bureau) there also are many operators of legal vessels. At least seven of us belong to the Passenger Vessel Association, a nationwide association of more than 500 companies, which has been actively supporting Coast Guard efforts to bring this scandalous public safety problem to the public's attention.

The bill, H.R. 1159, is only one of the ways we are trying to warn people about the serious personal risks they assume when they board illegal vessels.

It's important to remember that the people who are complaining about this legislation are those who have purchased recreational vessels, ostensibly for private use, and turn around and want to engage in the business of carrying public passengers for hire.

The vessels they own were never intended as commercial vessels carrying the general public and, as such, were constructed to a much lower safety standard than the standard used for commercial vessels. They are not inspected for safety considerations by the U.S. Coast Guard and are not operated in compliance with Coast Guard safety requirements.

This fact usually is not known to the people chartering the boat. We know from experience that most people assume that because a vessel is being held out for hire to the general public, it meets the legal safety standards applying to such vessels. People who want to have a party on a boat, or take friends or family out for the day, take it for granted the vessel they are on meets high safety standards. In fact, they usually spend more time worrying about the menu than whether the vessel has adequate fire extinguishers or life jackets.

Contrary to the claims of opponents of this bill, it will not force one single person out of the business of offering legal bareboat charters.

True bareboat charters will continue to be legal as long as they do not carry more than a specified number of passengers.

For people who want to continue chartering their recreational boats with their own crew, they can continue to do this simply by bringing their vessels up to legal specification. We know. Some of us started out as operators of one uninspected vessel.

All of us were persuaded, however, that if we wanted to be in the business of carrying the general public on our vessels, the vessels should meet high safety standards.

We spent the money necessary to do this and others can too. Hundreds of private, recreational vessels all over the country, not just here in Florida, have been retrofitted in recent years to enable them to carry public passengers for hire in compliance with the law.

As for competition, we welcome it! The more the better. The widespread availability of safe, enjoyable water-borne experiences is one of the things that brings people to South Florida. That is what keeps us in business. [But] if the guy next door operates a rust bucket at a fraction of the cost, eventually those of us who spend money to keep our vessels up to specification are going to fold up the tent.

Public officials in South Florida, residents and visitors alike should get behind H.R. 1159 and push Congress to pass it as soon as possible. Safe passenger transportation by water should not be just a goal but should be a priority of everyone here.

CAPT. JERRY GERTZ.

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LETTER FROM LEONARD FRIEDMAN, PRESIDENT, SWATH OCEAN SYSTEMS, INC.

AUGUST 5, 1993.

The Honorable ERNEST F. HOLLINGS,  
U.S. Senate,  
Washington, DC 20510

DEAR SENATOR HOLLINGS: I am writing to you in your capacity as Chairman of the Senate Commerce Committee and Sponsor of S. 1052, the Coast Guard Authorization Act of 1993, to express my support for the bill generally and Title VI, the Passenger Vessel Safety Act of 1993, in particular. As the owner of a new innovative shipyard in Chula Vista, California, which builds a new class of small twin hull passenger vessels, I am in favor of increased funding for the U.S. Coast Guard for FY 1994 and endorse their effort to promote both increased safety and regulator flexibility for smaller passenger vessels, whether chartered or operated by the owner.

This legislative effort will, hopefully, come in time to help Swath Ocean Systems yard's current efforts to achieve Coast Guard certification of the new class of passenger carrying SWATH vessels on which we have staked a major part of our yard's future. SWATH, which stands for Small Waterplane Area Twin Hull, represents the design of a vessel with exceptional stability and seakeeping, notably reducing seasickness for passengers and also providing a very stable platform for special activities like hydrographic surveys and photography. The United States Navy has built and is successfully using SWATH boats in rough waters surrounding places like the Hawaiian Islands.

Swath Ocean Systems is one of several yards in the United States that are seeking to maintain our country's lead in the design and production of SWATH-type vessels. SWATH is one of those rare instances where domestic U.S. shipyards have found a niche in worldwide shipbuilding in which they have and can maintain leadership and dominance. However, a key to this effort is securing the immediate attention of our lawmakers and regulators in rationalizing current laws, regulations and administrative practices that will enable U.S. shipyards to be competitive worldwide and still produce a very safe vessel.

Swath Ocean Systems itself has already built and sold four of these boats designed for hydrographic survey and harbor pilot use and they have produced excellent results for their purchasers. We currently have several other SWATH passenger boats under construction for use as sportfisher and oceanographic-observation vessels. We have been working with the U.S. Coast Guard to achieve certification of these boats.

Unfortunately, our innovative twelve (12) passenger SWATH sportfisher boats are "square pegs" that do not fit into any of the "round holes" of existing Coast Guard passenger vessel certification regulations. These SWATH boats present special certification problems because the existing antiquated admeasurement rules for documentation predate even the concept of SWATH design and therefore this new breed of vessel is arbitrarily forced into an unworkable regulation certification category by default.

More specifically, Swath Ocean Systems' 90-ft. sportfisher vessel presently under construction has an estimated gross tonnage of over 300 tons under existing admeasurement rules. As such, the vessel falls under 46 C.F.R. Subchapter H which imposes certification requirements created for much larger monohull passenger vessels, requirements which SWATH, as configured, cannot meet. The sportfisher SWATH vessel could, however, meet and by far exceeds the safety requirements of 46 C.F.R. Subchapter "T", except that because of its unconventional design it "measures" over 100 gross tons.

As the Commanding Officer, Marine Safety Center, USCG sympathetically put it in a USCG memorandum:

"The application of Subchapter 'T' regulations to a SWATH vessel of this size has some merit. This vessel is essentially composed of a single passenger deck which measures approximately 79' x 40' and is topped by a bridge less than half that size. This particular vessel is actually much smaller and carries fewer passengers than most of the 'T' vessels which are reviewed by the Marine Safety Center. However, since the tonnage rules predate the conception of SWATH designs, it is not possible for this builder to take maximum advantage of these rules as most of his monohull building counterparts do. The gross tonnage rules in this case penalize the more modern, higher tech SWATH design by requiring more costly construction (and maintenance). We, the Coast Guard, thus find ourselves in the position of enforcing a status quo which possibly denies a company the opportunity to compete in the small passenger vessel market.

"Although I realize there is no easy answer to this issue, we owe it to the industry we serve to be responsive when considering all aspects of modern designs."

Like the identical provisions of the House bill equivalent, H.R. 1159, Sections 605 and 612 of Title VI, S. 1052 effectively provide a new certification regime for our SWATH class of vessels where the antiquated admeasurement is not controlling. Even though the major purpose of the legislative effort here is directed towards imposing greater safety requirements on the bareboat charter of recreational vessels to commercial operations, this initiative does so by amending Section 2101(42) of Title 36 U.S. Code to create a new definition of "uninspected passenger vessel" which includes a vessel of at least 100 gross tons and carrying not more than twelve (12) passengers, including at least one passenger for hire.

SWATH Oceans sportfisher vessel can obviously meet this definition and thereby pursue USCG certification as newly defined Subpart C Vessel instead of a Subpart H or T vessel. The one qualification to this avenue is further provision in Section 612 of the bill which would provide that "within 24 months after date of enactment of this Subsection, the Secretary (of Transportation) may require certain additional equipment (including like rafts or other life saving equipment) or establish construction standards, or additional operation standards, for the uninspected passenger vessels described in Section 2101(42)(A) of this Title."

When you read the revised definitions and in particular the new section 105 definition of uninspected passenger vessel you will note that it includes as part of its definition the phrase "an uninspected vessel". "An uninspected vessel" is defined at 46 U.S.C. Section 2101(43) as a vessel not subject to inspection under Section 3301

of this title "that is not a recreational vessel." Recreational vessel is defined at Section 2101(25) as a vessel A) being manufactured or operated primarily for pleasure.

While the SWATH vessel CHUBASCO has always been manufactured, configured to be operated as a "for hire" sportfisher vessel, its initial operations will likely begin before H.R. 1159 would become law. Consequently there will be a period where the vessel will be documented and operated primarily as a personal yacht because under current law, it will be unable to achieve certification as either a Subsection H or T boat or as a Subsection C "uninspected vessel". The problem we seek to avoid here is a situation where the CHUBASCO is initially documented and operated as a pleasure yacht and later we seek to apply for uninspected vessel status after H.R. 1159 and/or S. 1052 become law. We would not want to find the CHUBASCO somehow precluded from achieving certification as a (post Public Law) "uninspected vessel" of over one hundred gross tons by carrying less than twelve passengers for hire.

One way to deal with this unintended result would be to take the phrase "an uninspected vessel" out of the suggested provision in Section 605 of the bill which now reads—"(42) 'uninspected passenger vessel' means a vessel"—so that it will read "42 'uninspected passenger vessel means a vessel \* \* \*" and does not, therefore, tie back into the "recreational vessel" definition of 2101 (25). In any case the presence of the "an uninspected" phrase is probably unnecessary and could generally create confusion. At the very least, the record should be made clear that such a reading and unintended result is not what the congress has in mind.

Obviously, Section 612(b) of the bill which would amend Section 4105 will come into play and offer some limitation on the uninspected passenger vessel status. I am reasonably confident, however, that the SWATH vessel CHUBASCO and others of its class will exceed any standards or requirements the Coast Guard would reasonably require for safety equipment, construction standards or operating standards. I do ask you assistance to insure that the language in the Committee Report or any floor debate also make it clear that the Congress understands that the Coast Guard will (1) consult with the builders of new specialty vessels such as SWATH in drafting and issuing these regulations, and (2) utilize, to the extent possible, the modern vessel design and standards without imposing unnecessary outdated regulations or unreasonable costs on their construction and maintenance.

We understand in that regard that the Coast Guard may consider, but is not required, to issue regulations in the areas of construction materials and standards, water-tight subdivisions and enclosures, loadline assignments, stability structural, fire protection and firefighting and lifesaving equipment. Pending the issuance of any such new regulations which may take years, the Committee should confirm with the Coast Guard that they will be working with vessel builders on an ad hoc, case by case, basis to expeditiously achieve certification of newly defined Subpart C "uninspected passenger vessel over 100 GT carrying twelve (12) or fewer passengers."

We appreciate your leadership and support on these matters. If you or your staff has any further questions on our comments or suggestions, please do not hesitate to contact me or my Washington counsel, Stuart S. Dye of Graham & James.

Sincerely,

LEONARD FRIEDMAN,  
*President, Swath Ocean Systems, Inc.*

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PREPARED STATEMENT OF BRIAN G. PINCKET, ASSOCIATE COUNSEL, SOUTHEAST  
TOYOTA DISTRIBUTORS, INC.

Southeast Toyota Distributors, Inc. ("SET") is an American owned company that is the sole distributor of Toyota motor vehicles in the Southeast United States. It is also part of a group of companies involved in all aspects of the distribution and sale of motor vehicles and motor vehicle related products. SET owns a 167' motor yacht and a 130' motor yacht, both built by Feadship, which it uses to entertain business clients and its employees and which it occasionally donates the use of to non-profit charitable organizations. The vessels are United States flag vessels, are registered with the United States Coast Guard as uninspected recreational vessels and are utilized by SET for private uninspected recreational purposes.

It is our understanding that HR 1159 (the "Bill") is designed to prevent owners of vessels that are registered as recreational vessels from chartering their vessels, i.e. bareboat chartering. SET has never chartered its vessels and does not intend to ever charter its vessels. One possible interpretation of the Bill is that it would not only prevent vessels that are not Coast Guard "inspected" vessels from engaging in the bareboat charter business, as its drafters intend it to do, but that it would

also prevent the use of private uninspected vessels owned by various corporations and individuals from being used for non-charter and non-commercial uses. The Bill as written may prevent SET and all other owners of private uninspected recreational vessels from using the vessels in the following manners:

1. Use of a vessel as an inducement or reward with business clients, customers and their employees;
2. Use of a vessel as an inducement or as a reward with employees of the owner of the vessel; and
3. To provide the use of a vessel to tax exempt charitable organizations, at no cost to the charitable organizations enabling them to carry passengers for fund raising purposes.

The Bill creates a broad definition of the word "consideration," and provides that any person who may board a vessel under any of the foregoing circumstances may be deemed to have provided consideration as a condition of carriage. The Bill further provides that any person who has provided consideration would be deemed a "passenger for hire." If a vessel carries passengers for hire, it must meet the very rigorous inspection requirements that a Coast Guard "inspected" vessel must meet. Vessels that are not required to be Coast Guard "inspected" vessels must meet separate safety requirements, but are not required nor constructed to meet the very rigorous inspection requirements that other vessels must meet.

It would require a tremendous amount of money to retro-fit most private vessels to meet the more rigorous inspection requirements and would significantly discourage the purchase of vessels for recreational purposes. If a vessel cannot be used for the foregoing purposes, then many corporations and individuals simply would not own them, resulting in a significant negative impact on the boating industry.

We believe the use of private vessels for the non-commercial purposes set forth above should be the right of any private owner of a vessel. The owner does not receive consideration in the real sense of the word to carry passengers and we believe that if the foregoing purposes were permitted under the Bill, the intent of the legislation would remain intact.

We have worked with the House Merchant Marine and Fisheries Committee and we commend them for their assistance and cooperation in working on this legislation. We thought that by including in the record a statement of our concerns about the overly broad definition of "consideration", we could bring to light and clarify that the foregoing uses of a vessel should not trigger the inspection requirements under current regulations. We believe that the best way to deal with these issues is in the statutory language through a simple amendment to the definition of consideration, but to the extent that this cannot be done, we need assurances within the context of the legislative record on this legislation that the foregoing uses by an uninspected recreational vessel would not be inconsistent with the Bill and would not require such a vessel to be an "inspected" vessel under current regulations.

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QUESTIONS ASKED BY SENATOR DANFORTH AND ANSWERS THERETO BY ADMIRAL  
KIME

MACKINAW

*Question.* The Coast Guard plans to decommission the 49-year-old icebreaker USCGC MACKINAW. Great Lakes navigation interests do not believe the Coast Guard's plans to replace the MACKINAW with ice breaking tugs that will provide adequate icebreaking service on the Great Lakes. Will you elaborate on icebreaking capabilities on the Great Lakes if the MACKINAW is decommissioned?

*Answer.* The Coast Guard currently operates five 140' icebreakers on the Great Lakes. Fifteen years of operational experience with these icebreakers, supported by a 1981 Coast Guard Research and Development Center study, have demonstrated that the Coast Guard can continue to provide the same level of service, a Great Lakes shipping season from 1 April to 15 January each year, without the MACKINAW. Under more severe ice conditions, two 140' icebreakers, operating in tandem, can perform the icebreaking that would have been required of MACKINAW. However, the vast majority of operations will only require the capability of a single 140' icebreaker.

Additional Great Lakes icebreaking assets include three 180' seagoing buoy tenders and backup support from two major Canadian Icebreakers including the 8400 horsepower SAMUEL RISLEY. Canadian icebreaking assets are available pursuant to a 1990 agreement between the United States and Canada concerning coordination of icebreaking operations in the Great Lakes and St. Lawrence Seaway.

MACKINAW's icebreaking capability, while significant, is not required to maintain the current shipping season. The \$4.7M annual operating cost for MACKINAW,

compared to \$1.1M for a 140' icebreaker, is not justified for a ship that is under-utilized. Over the last ten years, MACKINAW has averaged 525 hours per year for icebreaking about 22 days at a cost of \$214K per day. In addition to the annual operating cost savings, decommissioning the MACKINAW would avoid up to \$15M in needed capital improvements over the next 5-10 years.

#### STATUS OF THE CERTIFICATE OF FINANCIAL RESPONSIBILITY (COFR) RULEMAKING

*Question.* The Oil Pollution Act of 1990 (OPA 90) assigned many, new, resource intensive responsibilities to the Coast Guard including: pollution fund administration, pollution prevention, vessel/facility response plan review, strike teams, casualty-pollution investigations, and legal support of environmental protection and enforcement. The Coast Guard is working on rulemakings to implement OPA 90 provisions including: Certificates of Financial Responsibility (COFRs). Would you comment on the status of the Certificates of Financial Responsibility?

*Answer.* The Coast Guard is working with interested parties to craft the best possible COFR solution. We are currently evaluating comments received in response to our Notice of Proposed Rulemaking (NPRM). We received about 300 comments, most were unfavorable. We published a Preliminary Regulatory Impact Analysis (RIA) on July 21, 1993, which will be made available to the public soon. We also expect many comments on the preliminary RIA, which will have a 60 day comment period. We will make a final decision on the final rule after we evaluate all of these comments. There is no statutory deadline for this rulemaking.

One of the major issues is whether OPA 90 provides regulatory flexibility to accept Protection and Indemnity (P&I) Club membership as evidence of financial responsibility without the P&I Club being subject to direct legal action. The Coast Guard is still evaluating various alternatives. The difficulty is in promulgating requirements that will assure prompt payment of removal costs and damages to the limits of liability and comply with OPA 90.

Until new rules are published, financial responsibility is at the lower levels of the preexisting laws, but liability is at OPA 90 levels. Vessel owners/operators normally carry insurance well in excess of OPA 90 limits, but the coverage is subject to a host of defenses and exclusions just as any non-guaranteed coverage would be.

*Question.* The 1990 Reconciliation Act directed the Coast Guard to collect user fees for merchant mariner examinations and documents. Concern has been expressed that the proposed fees are unreasonable and are higher than the cost of the service provided by the Coast Guard. Would you comment on the status of the Coast Guard's efforts to implement these user fees and whether they are being accepted by the industry?

*Answer.* The final rule was published on March 19, 1993. Fees went into effect on April 19, 1993. To date, reports from Coast Guard field units indicate that acceptance of the fees has been much better than expected. While not pleased with the prospect of having to pay these fees, marine industry personnel seem to be of the general opinion that the Coast Guard carefully considered the various issues, and implemented the fees in a fair and equitable manner.

Seven maritime unions filed a lawsuit in the U.S. District Court of the District of Columbia on April 15, 1993, claiming that the fees were unconstitutional. The Department of Justice responded by filing an answer to the lawsuit. It is anticipated that they will file either a motion to dismiss or a motion for summary judgment. This case should conclude within the next 12 months. Collection of these fees has not been affected by the lawsuit.

#### QUESTIONS ASKED BY SENATOR GORTON AND ANSWERS THERETO BY ADMIRAL KIME

*Question.* What is the status of the double tug requirement as provided by OPA 90 for parts of Puget Sound?

*Answer.* A Notice of Proposed Rulemaking (NPRM) published July 7, 1992, defined areas in Puget Sound and Prince William Sound where escort vessels are required. Comments were sought on proposed definitions such as "escort vessel", boundary lines, suitability of escort vessels, and pre-escort conferences.

The Coast Guard determined that the comments it received were insufficient and reopened the comment period on March 26, 1993. That comment period closed June 24, 1993. The Coast Guard also held public hearings in Seattle and Alaska.

Additionally, the Coast Guard is participating in an on-going disabled tanker towing study together with the Prince William Sound (PWS) Regional Citizens Advisory Council, the PWS Tanker Association, Alyeska Pipeline Service Company, and the Alaska Department of Environmental Conservation. Because that study is expected to be completed by the end of this year, it was determined that the results should



be evaluated and, if appropriate, reflected in the final rule which should be completed within six months after completion of the study.

Please note that escort vessels are currently in use in Puget Sound per state requirements. So, while the Coast Guard's escort vessels regulation has been delayed, the intent of OPA 90 is currently being met.

#### TRAFFIC SEPARATION IN THE STRAIT OF JUAN DE FUCA

*Question.* Could you provide an update of your discussions with Canada regarding vessel traffic separation entering the Strait of Juan de Fuca?

*Answer.* Discussions with Canada revealed a congestion problem with traffic entering the Strait of Juan de Fuca because of a military operating area (W601) used by the Canadians as a live fire area. This area has been removed and the congestion problem virtually eliminated. Another major initiative in this area is the National Oceanic and Atmospheric Administration's (NOAA) designation of the Olympic Coast National Marine Sanctuary which is expected by March 1999. The Coast Guard is working closely with NOAA to determine the impact of the sanctuary on navigation and if vessel regulations are necessary to protect sanctuary resources.

*Question.* Are you familiar with the nonprofit Maritime Fire and Safety Association which, through the Coast Guard supports, trains and equips fire departments on both the Washington and Oregon side of the Columbia River for fighting oil spills and shipboard fires? Do you support their funding request of \$421,700 this year?

*Answer.* Yes, we are familiar with activities of the Maritime Fire and Safety Association (MFSA) in the area of shipboard firefighting and oil spill response. The Coast Guard does not support their funding request of \$421,700 this year. The Oil Pollution Act of 1990 (OPA 90) requires vessels and facilities to maintain private resources to respond to a worst case discharge of oil. Congressional intention of OPA 90 was to ensure that private industry bore the brunt of funding for pollution response capability. Using government funds to provide oil spill response equipment and training is contrary to this intent. For enhancing their marine firefighting capability, MFSA has previously received grant monies in the amounts of: \$349,000 in 1985; \$100,000 in 1987 and \$163,000 in 1988. In addition, they received \$1 million in 1991 for enhancing the communications capability along the Columbia River, and they are scheduled to receive \$400,000 in 1993 for improvements to this communications system.

Providing the funding to MFSA to outfit and train a pollution response organization could have the following detrimental effects:

1. Because funds were authorized but not appropriated, Coast Guard funds could be diverted from higher priority, more environmentally necessary projects.
2. This federal funding could discourage private sector investments in pollution response.

#### HIGH SEAS DRIFTNET ENFORCEMENT

*Question.* I was pleased to see that the Coast Guard is actively pursuing vessels that may be in violation of the driftnet moratorium. Could you tell us about the episode of boarding the Chinese vessel last week? What has the response of the Chinese government been? Is the Coast Guard involved in another enforcement activity at this time? Also, in general, can you tell us the Coast Guard's overall efforts to enforce the ban?

*Answer.* The Coast Guard has been involved in four incidents of suspected high seas driftnet fishing. These incidents began on May 7, 1993, when the Fisheries Agency of Japan (FAJ) notified the Coast Guard that one of their enforcement vessels had sighted the Honduran-flagged driftnet fishing vessel SARN FA NO. 37 on May 4. Kodiak-based Coast Guard HC-130 aircraft, which operate out of Shemya Air Force Base in the Aleutian Islands, located the SARN FA NO. 37 and a Chinese-flagged driftnet vessel—the YINGYU 601—approximately 500 nautical miles (nm) south of the Kamchatka Peninsula on May 9. The YINGYU 601 was observed driftnet fishing by another Coast Guard HC-130 flight on May 10. At the time of this sighting, the vessel was retrieving its nets, had fish on its deck, and approximately two miles of driftnet in the water. The SARN FA NO. 37 was nearby but was not fishing.

The Coast Guard received permission from both the Honduran and Chinese governments to board the SARN FA NO. 37 and the YINGYU 601. The Coast Guard Cutter SHERMAN, a 378-foot Coast Guard cutter homeported in Alameda CA, was diverted to intercept the vessels. It located them on May 14, along with a second Chinese driftnet vessel, the YINGYU 602. After a 36-hour chase, the SHERMAN boarded the YINGYU 601 and found approximately 14 miles of driftnet, but no fish. The master claimed to be conducting "experimental" fishing and said he had re-

turned to the sea all the fish he caught. In accordance with the instructions of the Chinese government, the Coast Guard ordered the YINGYU 601 to return to its homeport in China.

During SHERMAN's pursuit of the YINGYU 601, the SARN FA NO. 37 and the YINGYU 602 departed from the scene. A Coast Guard HC-130 relocated the YINGYU 602 on May 16. The SHERMAN intercepted the vessel and boarded it on May 1 after receiving permission from the Chinese government. Approximately 10 miles of driftnet were found, although they did not appear to have been recently used. No fish were found aboard. No specific research plan, data requirements or objectives were offered to the Coast Guard boarding party in support of the master's claim. The Coast Guard received no prior notification from the Chinese government regarding this type of experimental fishing. The "experiment" may well have been to attempt high seas driftnet fishing and test the effectiveness of enforcement and monitoring efforts of the U.S. Coast Guard and the enforcement agencies of other countries. The Coast Guard instructed the YINGYU 602 to return to its homeport in China in accordance with the instructions of the Chinese government. The Department of State has presented a formal protest to the Chinese government regarding the YINGYU 601 and YINGYU 602, and has asked to be notified when they reach port in China.

The SARN FA NO. 37 was not relocated. The Department of State presented a formal protest to the Honduran government regarding the SARN FA NO. 37. The vessel's last known course, speed, and position were passed to two FAJ enforcement vessels which were underway from Japan in response to previous U.S. reports. Coast Guard efforts were redirected to the high threat area to the north.

On May 23, a Coast Guard HC-130 located the Chinese-flagged driftnet vessel DAYUANYU NO. 206 approximately 550 nm south of the Kamchatka Peninsula. SHERMAN boarded the vessel on May 25, after receiving authorization from the Chinese government. While the boarding team found large quantities of driftnets, there was no evidence of fish aboard the vessel. The Coast Guard Cutter SHERMAN escorted the DAYUANYU NO. 206 to Shanghai and transferred custody of the vessel and crew to Chinese authorities. Eighteen Chinese crewmen were returned to their home province and face local prosecution. The nets, the vessel and the ship's papers have been confiscated. The Taiwanese master and two Taiwanese crewman remain in Shanghai pending the outcome of an investigation being conducted by Chinese authorities.

Regarding the Coast Guard's overall strategy for enforcing the U.N. moratorium on high seas driftnet fishing, the Coast Guard monitors at-sea activity in the Pacific through long-range aircraft patrols and surveillance information supplied by the Department of Defense. The aircraft patrols are conducted by Coast Guard HC-130 aircraft equipped with the APS-137 radar. Coast Guard HAMILTON-class high endurance cutters with deployed HH-65A helicopters are available to respond to sighting information. Additional coverage is available throughout the Pacific as Coast Guard aircraft and cutters operate in the region while on other missions. However, our highest priority area is the region of U.S. anadromous stocks (e.g., salmon) in the northern Pacific. Overall, the Coast Guard high seas driftnet enforcement efforts remain at or near 1992 levels of approximately 85 aircraft surveillance flights and 95 cutter days. Efforts will be increased or scaled back depending upon the level of activity detected.

*Question.* What is the status of the upgrade of the Vessel Traffic System in Puget Sound? Is it now fully operational and has all work been completed?

*Answer.* The Puget Sound Vessel Traffic Center Upgrade project has not been completed but is on schedule for completion during the first quarter of fiscal year 1994. The Coast Guard installation strategy in Puget Sound was to install the Vessel Traffic Center (VTC) in parallel, but separate from, the existing VTC to ensure there was no break in service to the mariner. Construction of the VTC is scheduled for completion in August 93.

In addition to the VTC upgrade, there are several dependent subprojects progressing in parallel with the Puget Sound Upgrade. These include a conversion of the current analog communication links to digital microwave and landline technology, and improvement of VHF-FM communications. All sub-projects are currently on schedule.

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#### QUESTIONS ASKED BY SENATOR PACKWOOD AND ANSWERS THERETO BY ADMIRAL KIME

*Question.* The 1990 Reconciliation Act directed the Coast Guard to collect fees for the inspection of certain vessels. Charter boat operators have expressed concern that



such fees could force them out of business. What has been the impact of these vessel inspection fees?

Answer. To date, there has been no impact from these vessel inspection fees because the Coast Guard is still drafting the final rule. Publication of the final rule is expected to occur later this year.

Fees are based on Coast Guard costs associated with providing vessel inspection services. The Coast Guard is aware of the charter boat industry's concerns and has taken those concerns into consideration during the drafting of the final rule.

#### PASSENGER VESSEL SAFETY

*Question.* The legislative proposal transmitted by the Secretary of Transportation to Congress on May 19, 1993, includes a proposal to bring charters, including bareboat charters, under the passenger vessel safety laws when there are more than twelve passengers aboard the vessel. What could be the result if the Coast Guard is not given the additional authority to inspect these vessels?

Answer. The result could be a vessel fire or the sinking of a charter vessel with a tragic loss of many lives which could have been prevented by the implementation of vessel inspection and safety requirements.

Arrangements purporting to be bareboat charters have been used to conceal passenger vessel operations and to avoid otherwise required Coast Guard inspections. The chartering of an uninspected vessel that carries more than 12 passengers presents a significantly lower level of safety than a Coast Guard inspected vessel of the same size and passenger capacity. There are several chartered vessels carrying as many as 150 to 200 passengers on dinner cruises, office or graduation parties, wedding receptions, etc. Since the owners consider their vessels to be recreational vessels, they contend that they are only obligated to meet less stringent recreational boating safety standards. The vessels may not have adequate structural strength or stability for the route and number of passengers being carried, and adequate lifesaving and fire fighting equipment may not be carried. Moreover, since the vessels are not periodically inspected by the Coast Guard, they are often not maintained in a safe, seaworthy condition. The Coast Guard has investigated numerous cases where such vessels have had severely deteriorated hulls, poorly maintained propulsion machinery, inadequate lifesaving equipment or inexperienced operators. The Coast Guard is being proactive in asking for the passage of this bill to prevent tragedies before they occur.

*Question.* The legislative proposal transmitted by the Secretary of Transportation to Congress on May 19, 1993, includes a proposal to bring charters, including bareboat charters, under the passenger vessel safety laws when there are more than twelve passengers aboard the vessel. Is there a record of safety problems in the industry to support the need for adding these inspection requirements?

Answer. There is no accident reporting system which captures the number of safety problems with bareboat charters as a class of vessel. Casualties for bareboat chartered vessels are reported to the States as recreational vessel accidents. Since no delineation is made between an accident on a chartered vessel versus an owner-operated vessel, the casualty statistics for chartered vessels are blended with recreational boating statistics and are difficult to distinguish as a group. Additionally, operators of vessels attempting to avoid passenger vessel safety regulation may not report casualties to the Coast Guard in order to protect their operations.

However, the Coast Guard has investigated numerous cases where chartered vessels have been found with severely deteriorated hulls, poorly maintained propulsion machinery, inadequate lifesaving equipment and/or inexperienced operators. Some of these chartered vessels carry 150 to 200 passengers on dinner cruises, office or graduation parties, and wedding receptions, yet may not have adequate structural strength or stability for the route and number of passengers being carried. Additionally the minimum lifesaving and fire fighting equipment commensurate for that size vessel is often not carried. Moreover, some contractual arrangements purporting to be bareboat charters have been used to conceal passenger vessel operations to avoid Coast Guard otherwise required inspections. As a result, the vessels are often not maintained in a safe, seaworthy condition.

We believe that there are 500 to 700 bareboat chartered vessels engaged in operations similar to Coast Guard inspected passenger vessels. The bareboat charter vessel owners consider their vessels as recreational vessels, which are subject to less stringent safety requirements.

*Question.* Can you give some background for requiring Masters of all Commercial Fishing Vessels to obtain a Federal License? Is the need the same for all sizes and types of Commercial Fishing Vessels operating in different regions of the country?

**Answer.** The Commercial Fishing Industry Vessel Safety Act of 1988 required the Coast Guard to prepare and submit a plan to Congress for the licensing of operators of federally documented fishing, fish processing, and fish tender vessels. This requirement was based on the historically poor safety record of the commercial fishing industry and on Congressional desire to improve that record. Commercial fishing is an extremely dangerous endeavor, and the Coast Guard considers the increase of the skill level of the vessel operators to have the most promise for improving the current safety record. Nearly 100 lives and 250 vessels are lost annually in the commercial fishing industry. At the present time, the Coast Guard only has authority to require licensed personnel on commercial fishing vessels of at least 200 gross tons. This authority applies to only 350 of the 30,000 federally documented fishing vessels.

The licensing plan submitted to Congress considered the nature and variety of different fisheries, the need for licensing some or all of the personnel aboard vessels in the industry, and other relevant factors. More importantly, the plan considered the actions necessary to reduce the number of commercial fishing vessel casualties. Casualty data indicated that the majority of commercial fishing fatalities were associated with documented vessels and the number of fatalities were evenly distributed between the Atlantic Coast, Gulf Coast, the West Coast and Alaska.

The Coast Guard recommends licensing all operators of federally documented commercial fishing vessels, fish processing vessels, and fish tender vessels to which licensing requirements do not presently apply.

**Question.** How much will it cost the Commercial Fishing Industry to comply with the proposed Commercial Fishing Licensing proposal?

**Answer.** Since the Coast Guard is recommending private training be accepted in lieu of Coast Guard testing, each applicant will be responsible for the training costs incurred. The cost of the training is unknown at this time, but will vary depending upon distance traveled, lodging, and tuition. However, it is anticipated that the training industry will attempt to accommodate the fishing vessel operators by conducting local training at competitive prices. The training industry estimates the tuition will cost approximately \$200. Costs resulting from the Coast Guard application requirements include: a complete physical exam (\$75), drug-test screening (\$60), Coast Guard user fee for application evaluation (\$65), issuance of a license (\$35), and a FBI criminal record check (\$17). Excluding travel costs, the fisherman will be expected to incur an average initial cost of \$452 to comply with the proposal.

Depending on the distance traveled and cost of lodging, the expense to the fishing industry will range from \$5.1 to \$12 million per year. These are the expected costs for the initial 7 year licensing cycle. Future costs should decrease.

**Question.** The Coast Guard is seeking funding to require Commercial Fishing Vessel Operators to be Federally licensed. At present, however, the Coast Guard lacks the legislative authority to implement such a program. Why are these funds included in the budget request?

**Answer.** There is no existing statutory authority which allows the Coast Guard to require commercial fishing industry vessels of less than 200 gross tons to have a licensed operator on board. The Coast Guard has included proposed legislation in the Marine Safety Act of 1993 to provide this authority. Both the Coast Guard and the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) believe that the licensing of commercial fishing vessel operators with the emphasis on training is needed to reduce casualties caused by human error and to improve the historically poor safety record of the commercial fishing industry. The National Transportation Safety Board also considers the licensing of fishing vessel operators as one of their most significant outstanding safety related recommendations. The budget request was made in anticipation of the enactment of the legislative authority.

#### HAITIAN INTERDICTION

**Question.** The extra-ordinary costs of the Coast Guard's Haitian interdiction effort is approximately \$8 million. Will this cost affect other Coast Guard missions?

**Answer.** Since Operation Able Manner began on 15 JAN 93, the Coast Guard has been operating at a reduced level in other mission areas involving aircraft and cutters. Specifically, Gulf of Mexico fisheries patrols have been canceled, Northwest Atlantic Fisheries patrols have been limited to only one cutter (normally two are assigned), Caribbean drug interdiction patrols have been significantly reduced, and coastal law enforcement activity by patrol boats is now extremely limited. We will continue focusing Coast Guard multi-mission assets on Operation Able Manner until there is a long term solution to the problems within Haiti which sustain the threat of a Haitian mass migration by sea.

## SEARCH AND RESCUE

*Question.* From 1988 to 1994, the share of the total budget dedicated to search and rescue (SAR) will have dropped from 20.5 percent to 14.9 percent. Does this decrease result in a diminution of Coast Guard search and rescue capabilities?

*Answer.* No, the decrease does not translate into fewer or less effective Coast Guard search and rescue (SAR) capabilities. Nor does it signal a retreat from performing this vital, fundamental mission.

The figures cited in your question are derived from the Coast Guard's "Program Budget". The program budget "spreads" or allocates expenditure data across the Coast Guard's missions using a resource utilization algorithm. Resource utilization data comes from actual "Abstracts of Operations" of Coast Guard platforms (helicopters, ships, and boats) or from human resource employment usage reports. Expenditure data comes from the Coast Guard's financial reporting system. For example, the cost of operating a Coast Guard High Endurance Cutter is allocated to the different missions it performs based on the number of hours it spends carrying out those missions as compared to its operating budget.

Using this algorithm, the percentage of the Coast Guard's budget "programmed" to search and rescue response between 1988 and 1994 has decreased. But that decrease is attributable to substantial progress by the Coast Guard in recent maritime safety initiatives. For example, the Coast Guard has indicated that one of its goals is to take the "search" out of search and rescue. More reliable ship to shore and ship to ship communications, more efficient rescue platforms and techniques, electronic positioning indicating radio beacons (EPIRBs) that can relay the positions of distressed vessels via satellite to the Coast Guard, and improved computer assisted search planning which contains more accurate environmental data which affects the drift of distressed craft all have contributed to taking the search out of search and rescue. Furthermore, prevention is one of the primary goals of the Coast Guard's Recreational Boating Safety (RBS) and Commercial Vessel Safety (CVS) programs. Improved vessel construction standards, safety equipment and better boater education and the aforementioned all contribute to fewer resources devoted to his mission as a relative percentage of the entire Coast Guard budget.

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QUESTIONS ASKED BY SENATOR LOTT AND ANSWERS THERETO BY ADMIRAL KIME

## CAPITAL ASSET ACQUISITION

*Question.* Is the Coast Guard able to utilize or "piggy back" on the greater buying power of the Department of Defense when you go out to replace major capital assets such as helicopters? Is a procedure in place to make certain that, to the maximum extent possible, consistent with Coast Guard needs and missions, your equipment is compatible with and supportable by DOD services?

*Answer.* The Coast Guard has taken advantage of the Department of Defense's (DOD) greater buying power on a number of occasions, the most recent being the Icebreaker Replacement Acquisition and the Medium Range Recovery Helicopter (HH-60J) Acquisition. For Coast Guard unique assets, such as the buoy tender replacement acquisitions, we are unable to "piggy back" with DOD.

The requirement for our operational assets to be compatible with DOD equipment often times forces the Coast Guard to consider DOD assets and requirements as a normal way of doing business. The Coast Guard also makes it a practice to design and acquire compatible DOD systems to allow us to participate in the DOD logistics and follow-on support infrastructure. The Coast Guard uses these procedures routinely as a means of leveraging our buying power, however, there are no formal procedures in place to make certain that this occurs.

## DRUG INTERDICTION

*Question.* I note that there has been a reduction in the share of the proposed budget dedicated to drug interdiction efforts. How will this proportional reduction in operating expenses dedicated to drug interdiction affect the overall drug interdiction abilities? Will inter-agency coordination and delegation of interdiction responsibility compensate for this reduction?

*Answer.* The Coast Guard FY-94 budget reflects a reallocation of multi-mission asset resource hours among drug interdiction, migrant interdiction, and fisheries enforcement.

This reallocation of resource hours reflects the shift in national priorities toward migrant interdiction and fisheries enforcement. Although the Operating Expenses request for drug interdiction shows a reduction, we anticipate no adverse impact on overall interdiction effectiveness. This is possible through reliance on inter-agency



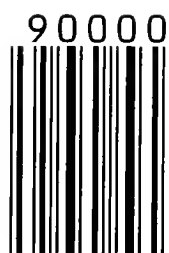
cooperation, increased participation by DOD in detection and monitoring activity, and better use of technology and intelligence information. The reduction in operating costs related to the drug interdiction mission reflects the decrease in random patrols. The FY-94 budget provides continued support of the National Drug Control Strategy. The National Counterdrug Planning Process (NCDPP) executes this strategy through inter-agency coordination at the strategic, operational and tactical levels.



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